Mandatory Greenhouse Gas Reporting Rule: EPA's Response to Public Comments

Volume No.: 4

Approach to Verification and Missing Data

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Approach to Verification and Missing Data

U. S. Environmental Protection Agency
Office of Atmosphere Programs
Climate Change Division
Washington, D.C.

FOREWORD

This document provides EPA's responses to public comments on EPA's Proposed Mandatory Greenhouse Gas Reporting Rule. EPA published a Notice of Proposed Rulemaking in the Federal Register on April 10, 2009 (74 FR 16448). EPA received comments on this proposed rule via mail, e-mail, facsimile, and at two public hearings held in Washington, DC and Sacramento, California in April 2009. Copies of all comments submitted are available at the EPA Docket Center Public Reading Room. Comments letters and transcripts of the public hearings are also available electronically through *http://www.regulations.gov* by searching Docket ID *EPA-HQ-OAR-2008-0508.*

Due to the size and scope of this rulemaking, EPA prepared this document in multiple volumes, with each volume focusing on a different broad subject area of the rule. This volume of the document provides EPA's responses to significant public comments received on our approach to data verification and missing data.

Each volume provides the verbatim text of comments extracted from the original letter or public hearing transcript. For each comment, the name and affiliation of the commenter, the document control number (DCN) assigned to the comment letter, and the number of the comment excerpt is provided. In some cases the same comment excerpt was submitted by two or more commenters either by submittal of a form letter prepared by an organization or by the commenter incorporating by reference the comments in another comment letter. Rather than repeat these comment excerpts for each commenter, EPA has listed the comment excerpt only once and provided a list of all the commenters who submitted the same form letter or otherwise incorporated the comments by reference in table(s) at the end of each volume (as appropriate).

EPA's responses to comments are generally provided immediately following each comment excerpt. However, in instances where several commenters raised similar or related issues, EPA has grouped these comments together and provided a single response after the first comment excerpt in the group and referenced this response in the other comment excerpts. In some cases, EPA provided responses to specific comments or groups of similar comments in the preamble to the final rulemaking. Rather than repeating those responses in this document, EPA has referenced the preamble.

While every effort was made to include significant comments related to our approaches to data verification and missing data in this volume, some comments inevitably overlap multiple subject areas. For comments that overlapped two or more subject areas, EPA assigned the comment to a single subject category based on an assessment of the principle subject of the comment. For this reason, EPA encourages the public to read the other volumes of this document with subject areas that may be relevant to the approach to data verification and missing data.

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1. SELECTION OF VERIFICATION APPROACH

Commenter Name: Robert D. Bessette
Commenter Affiliation: Council of Industrial Boiler Owners (CIBO)
Document Control Number: EPA-HQ-OAR-2008-0508-0513.1
Comment Excerpt Number: 2

Comment: This approach is wholly appropriate for this program and will provide accurate data at a significantly lower cost than with use of third-party verification. This practice is consistent with how EPA manages other CAA programs. Under the CAA, PSD and NSR require agency review and verification of calculations and offsets and emission reduction credits used in permitting to ensure they meet specific criteria. Current CAA practices are sufficient to ensure accuracy and compliance. At present, no CAA programs require third-party verification, which would add substantial burdens and costs to the program. Third-party verification is unnecessary.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Bruce J. Parker
Commenter Affiliation: National Solid Wastes Management Association
Document Control Number: EPA-HQ-OAR-2008-0508-2126
Comment Excerpt Number: 4

Comment: We support EPA's proposal that the Agency, not a third party, verify the accuracy of reported data. EPA has a long history of analyzing or verifying data collected under numerous statutory authorities including the Clean Air Act, Resource Conservation and Recovery Act, Clean Water Act and others. Greenhouse gas reporting is very similar in nature and technique to the various emissions reporting that occurs under the Clean Air Act. None of these require third party data verification, yet they all include enforcement provisions. These provisions provide significant disincentives for inaccurate reporting. EPA's experience in analyzing or verifying data submitted under these and other statutes ensures that the Agency is the appropriate verification agency. Requiring the use of third party verifiers will add unnecessary costs, create delays in reporting data to EPA, lead to inconsistent data reporting, and increase EPA's own data verification and audit costs. We believe the certification language under the existing Clean Air Act and as required under s. 98.4 (e) of the proposed regulation is more than sufficient to ensure the accuracy of the reported data and therefore third party verification is not warranted.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Steven J. Rowlan
Commenter Affiliation: Nucor Corporation (Nucor)
Document Control Number: EPA-HQ-OAR-2008-0508-0605.1
Comment Excerpt Number: 25

Comment: In 98.3(f), the certification statements provide no basis for verification of accuracy because they are merely statements that the information provided is true and correct. The credible evidence rule is already established law and does not require repeating. Paragraph (f) adds nothing to the agency's enforcement authority, adds nothing of benefit to the rule, and should be deleted.

Response: EPA will verify the accuracy of the data using the approach described in Section II.N of the preamble. Reporters must certify that the report has been prepared in accordance with the requirements of 40 CFR part 98 and that the information contained in the report is true and accurate, based on a reasonable inquiry of individuals responsible for obtaining the information. For additional information on how EPA will verify the data reported, see the preamble for the full response on the emissions verification approach.

Commenter Name: Shannon Broome
Commenter Affiliation: Air Permitting Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0524.1
Comment Excerpt Number: 4

Comment: Proposed Section 98.4 requires that a designated representative of each facility certify the accuracy of GHG emissions reports. It also includes a verification requirement. Options for data verification considered include: (1) no verification, (2) verification by an independent third party, and (3) verification by EPA. 74 Fed. Reg. at 16,476-16,477. The Proposed Rule would provide for verification by EPA. EPA should adopt self-certification with verification by EPA, rather than a third-party.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Chris Hobson
Commenter Affiliation: Southern Company
Document Control Number: EPA-HQ-OAR-2008-0508-1645.2
Comment Excerpt Number: 5

Comment: In general, EPA's approach to self-certification with EPA verification seems well conceived and appropriate to achieve complete, quality data. The use of continuous emissions monitoring (CEMs) data for the electric utility industry and the records retention program as described in the proposed rule should eliminate concerns with data quality from this important source category.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach and the response on the general monitoring requirements.

Commenter Name: Bernard T. Delaney
Commenter Affiliation: Association of Accredited Verification Bodies (AAVB)
Document Control Number: EPA-HQ-OAR-2008-0508-0531.1
Comment Excerpt Number: 4

Comment: EPA discusses the burden of creating a third-party verification program and suggests that it would bear costs to develop its own third-party verification requirements and protocols for the GHG rule (building on the state programs), because the existing verification and accreditation requirements are program-specific. However, program neutral accreditation programs currently exist that EPA could leverage, such as the ANSI-administered GHG Validation/Verification Body accreditation program that accredits verification bodies to the International Organization for Standardizations' standard ISO 14065. Additionally, EPA would have to create internal protocols to assure appropriate quality control in the absence of third-party verifications. Costs associated with creating a new system can be avoided by adopting the ANSI system making the cost-benefit analysis for third-party verification more favorable than presented by EPA.

Response: EPA selected the self certification with EPA emissions verification approach based on a number of factors in addition to costs. See the preamble for the full response on the emissions verification approach. EPA recognizes that, had we selected a third party verification approach, we could have developed certification procedures that built upon those contained in state programs, TCR, ANSI, and ISO. However, in order to be relevant and applicable to the unique scope and specific requirements of this reporting rule, verification and accreditation systems would have required substantial customization to this rule.

Commenter Name: Laurence K. Lau
Commenter Affiliation: State of Hawaii Department of Health
Document Control Number: EPA-HQ-OAR-2008-0508-0420
Comment Excerpt Number: 5

Comment: Verification is a very important issue and the Task Force stresses these principles for accommodating GHG control programs: (a) assure verification to reasonable level; (b) use/allow most cost effective option; and (c) use existing international standards (ISO) & accreditation (ANSI) features.

Response: The final rule retains self-certification with EPA verification. For the response to the comment on using other third party accreditation programs, see the response to comment EPA-HQ-OAR-2008-0508-0531.1, excerpt 4. For additional information, see the preamble for the full response on the emissions verification approach.

Commenter Name: Chris Hobson
Commenter Affiliation: Southern Company
Document Control Number: EPA-HQ-OAR-2008-0508-1645.2
Comment Excerpt Number: 10

Comment: Southern Company concurs with the EPA proposal for self-certification with EPA verification (Option 3). This approach has worked successfully with other emissions reporting programs.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Pamela F. Faggert
Commenter Affiliation: Dominion
Document Control Number: EPA-HQ-OAR-2008-0508-1741
Comment Excerpt Number: 22

Comment: We strongly support EPA's proposed self-certification of data, particularly for data measured, collected and submitted under 40 CFR Part 75 Continuous Emissions Monitoring Systems (CEMS). The data collected by CEMS have been self-certified since the start of the Acid Rain program in the mid-1990's and are the standard by which emissions are measured for EPA's highly successful Title IV Acid Rain program and the NOx emissions trading programs under the OTC NOx program, the NOx SIP Call program and the Clean Air Interstate Rule (CAIR). Requiring 3rd party verification on top of existing requirements would be burdensome and unnecessary.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: William Koetzle
Commenter Affiliation: Chevron Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0352.1
Comment Excerpt Number: 4

Comment: EPA asserts that its proposal for EPA verification will result in a consistent national verification approach. However, in order for EPA to be able to timely review and verify the massive amounts of information that will be submitted, the agency would have to quickly hire and train numerous employees or contractors. Even assuming that EPA can eventually achieve a high Level of consistency among its employees and contractors who are performing verification, there is no reason that the same level of consistency cannot be achieved with appropriate training and certification requirements for third party verifiers.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Joseph A. D'Amico
Commenter Affiliation: Foundation Coal Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0421.1
Comment Excerpt Number: 3

Comment: It is our understanding that self verification with EPA certification applies to coal mine methane and that third party verification is solely intended for petroleum providers. Further clarification of this language is needed. On behalf of coal and natural gas suppliers, protocols certifying third party verifiers have already been established by other organizations.

Response: EPA has selected self certification with EPA verification for all source categories. See the preamble for the response on the emissions verification approach. At this time EPA is not going final with the suppliers of coal subpart. As we consider next steps, we will be

reviewing the public comments and other relevant information. Thus, we are not responding to comments on this subpart at this time.

Commenter Name: Kevin A. Lehner
Commenter Affiliation: Environmental Compliance Systems, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0673
Comment Excerpt Number: 1

Comment: With regard to verification of inventory reports we believe USEPA has overlooked an important potential option and should review this option before selecting their final method for performing inventory reporting and verification activities. We believe USEPA should consider allowing reporters the option to either report directly to USEPA or to provide inventory reports verified by ANSI accredited ISO 14065 Verification and Validation Bodies through existing voluntary reporting organizations such as The Climate Registry. We believe that a thorough evaluation of this additional option for reporting and verification of inventory reports would show that most of the negative consequences of each of the three potential reporting options considered by USEPA could be avoided if this alternate approach were adopted by USEPA. With little additional effort, most voluntary GHG registries can adapt their reporting protocol to accommodate USEPA reporting requirements and emission calculation methods and transmit the data to US EPA on behalf of the reporter in a format acceptable to USEPA. USEPA would simply need to verify that the registries reporting protocol was consistent with USEPA's and that the data reporting methods were in a format that could be easily accepted into USEPA's recordkeeping and data analysis systems. Benefits of this alternate approach include; elimination of duplication of reporting by organizations already providing their inventories to the voluntary registries, overall reductions in effort and cost to USEPA for verification activities, higher stakeholder confidence in the accuracy of the inventory reports and, the flexibility for reporters to choose how they will transact required reports with USEPA.

Response: During the development of the rule, EPA considered a number of different options for verification of the reported data. EPA selected the self certification with EPA verification approach based on a number of factors that are discussed in detail in Section II.N of the preamble. Although we considered the hybrid approach suggested by commenter, we concluded this approach would not meet the needs of this program. First, in order to be relevant and applicable to the unique scope and specific requirements of this reporting rule, verification and accreditation systems would require substantial customization to this rule. Most programs that adopted a third party verification approach (e.g., CARB) found that they had to adapt existing programs to meet the specific needs of their program. Second, a reporting program with two or more different methods of verification would be more difficult to administer and place a greater burden on EPA resources. Third, receipt of emissions data from reporters selecting third party verification would likely be delayed due to the extra time required for third party verification.

EPA has determined that direct submittal to EPA of annual emissions information and the data necessary to verify emissions will best ensure the availability of consistent, verified data for use in a timely fashion. EPA intends to work with the States to develop an efficient and timely system to share data and reduce the burden on reporters. See the preamble for the full responses on the emissions verification approach, the role of States, and relationship of this rule to other programs. For the memorandum "Review of Verification Systems in Environmental Reporting Programs" (EPA-HQ-OAR-2008-0508-047)

Commenter Name: William Koetzle
Commenter Affiliation: Chevron Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0352.1
Comment Excerpt Number: 3

Comment: As EPA recognizes, many existing greenhouse gas reporting programs require that emissions reports be subject to third-party verification. California, the Western Climate Initiative, The Climate Registry and the European Union Emission Trading System, to name just a few, all require third-party verification. By providing for EPA verification rather than third-party verification, EPA's proposal adds an unnecessary, duplicative and potentially conflicting layer of reporting. Numerous GHG emission sources that will be subject to the rule (such as Chevron's two California refineries) are located in jurisdictions that have adopted GHG reporting programs that require third-party verification. These programs are not being replaced or preempted by EPA's-reporting program, thus, sources located in these areas would have to comply with both programs. The new EPA GHG reporting program, therefore, should be as consistent as possible with existing programs in order to minimize the compliance burden on reporters. By relying on third-party verifiers, sources subject to the rule would be able to provide data to their verifier once for aggregation and verification, and could then submit verified emissions reports. However, EPA's proposed approach means that a facility, in an area with multiple and differing emission reporting requirements, would have to submit its raw data once to its third-party verifier and again to EPA, file massive amounts of data needed to calculate GHG emissions. For a major industrial facility data submittal is not a trivial task and EPA should not require duplication to comply with multiple programs.

Response: See the preamble for the full responses on the emissions verification approach, the role of States, and relationship of this rule to other programs. For the response to the comment on using other third party accreditation programs, see the response to comment EPA-HQ-OAR-2008-0508-0673, excerpt 1. EPA intends to work with States and others to support harmonization across programs to the extent possible. See the preamble for discussion of the role of States and the relationship of this rule to State programs.

The final rule retains self-certification with EPA verification. EPA has determined that direct submittal to EPA of annual emissions information and the data necessary to verify emissions will best ensure the availability of consistent, verified data for use in a timely fashion. EPA intends to work with the States to develop an efficient and timely system to share data and reduce the burden on reporters.

Commenter Name: Michael Walsh and Paula DiPerna
Commenter Affiliation: Chicago Climate Exchange (CCX)
Document Control Number: EPA-HQ-OAR-2008-0508-0401.1
Comment Excerpt Number: 1

Comment: We strongly recommend that the EPA rules recognize the verified emission reports provided by participants in the CCX registry. CCX's reporting protocols are consistent with those outlined in the proposed rules. CCX rules require Members to provide annual emissions totals (by gas in metric tons of CO_2 equivalent) on an entity- wide basis and by facility. CCX reporting procedures require Members to provide annual fuel use and feedstock consumption data. Further, CCX Members' annual reports are subject to third party verification by the

Financial Industry Regulatory Authority (FINRA), the largest independent regulator for all securities firms doing business in the United States. Recognition of CCX Member emissions reports by the EPA reporting rule would lower the cost of compliance for entities that have been leaders in being accountable for managing their emissions footprint. We will be pleased to provide you with a more detailed discussion of our reporting rules.

Response: We concluded that self-certification with EPA verification was most appropriate for our purposes. See the preamble for the full response on the emissions verification approach.

Commenter Name: Joseph A. D'Amico
Commenter Affiliation: Foundation Coal Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0421.2
Comment Excerpt Number: 6

Comment: Regarding the reference to third party verifiers on page 16477 of the Preamble, protocols certifying third party verifiers have already been established by other organizations.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Douglas Hileman
Commenter Affiliation: Douglas Hileman Consulting LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0704.1
Comment Excerpt Number: 1

Comment: On March 10, 2009, the U.S. Environmental Protection Agency issued a proposed rule for mandatory greenhouse gas (GHG) reporting from large GHG emissions sources in the United States. This proposed rule was published in the Federal Register on April 10, 2009. The rule did not include requirements or provisions for independent auditing or verification of GHG emissions in the context of compliance, reporting, or emissions reductions goals. Environmental Auditing is a well-established profession, and offers much to improve the confidence and reliability in this important data. As a professional with over 30 years of experience in environmental compliance, management, and auditing, I believe this omission is a significant error. I believe the EPA should mention independent auditing, verification, and oversight – all standard governance practices in the field of internal auditing – as part of any regulations, rules, or policies.

Response: EPA reviewed the verification requirements of several mandatory and voluntary programs and weighed the benefits and disadvantages of each approach. From this review, we concluded that self-certification with EPA verification was the most appropriate approach for our purposes and has been used successfully in for the ARP. For additional information on why we selected self-certification with EPA verification, see the preamble for the response on the emissions verification approach. For a summary of our review of other verification systems, see docket for the memorandum "Review of Verification Systems in Environmental Reporting Programs" (EPA-HQ-OAR-2008-0508-0047).

Commenter Name: Robert Bray
Commenter Affiliation: The Auditing Roundtable
Document Control Number: EPA-HQ-OAR-2008-0508-0694.1
Comment Excerpt Number: 1

Comment: On behalf of the Environmental Auditing profession, the Auditing Roundtable (see) wishes to comment that the omission of mention or provisions www.auditing-roundtable.org of independent activities of any kind is a significant error. The Auditing Roundtable suggests the EPA mention independent auditing, verification, and oversight – all standard governance practices in the field of internal auditing – as part of any regulations, rules, or policies. The Auditing Roundtable is an organization of environmental auditors committed to the professional practice of environmental auditing. The Auditing Roundtable has existed over 25 years, and has approximately 500 members, including representatives of companies in all sectors (and with operations worldwide), a broad range of consultancies, and other parties. One need look no further than the financial services sector and the current economic situation to understand the critical part that good governance must play in compliance and enterprise risk management. The Financial Accounting Standards Board now requires that financial services company adopt the practice of Enterprise Risk Management. The profession of Internal Auditing, via groups such as the Institute of Internal Auditors (see www.theiia.org), has developed or supported frameworks for internal controls and for enterprise risk management. Frameworks designed by the Committee of Sponsoring Organizations are designed to be subject-neutral; they can be – and have been – successfully applied to environmental matters – either for entire programs, or portions thereof (see for more on these frameworks). Standard governance practices include a range of functions and activities, including: 1. Inspections: standard requirements of many laws and regulations; 2. Self-reviews and approvals: standard activities and internal controls, performed prior to compliance submittals; 3. Self-assessments: periodic inspections or checks by functional groups with operating or compliance responsibilities; 4. Audits: periodic independent evaluations of aspects of compliance, operations, or reporting; performed by parties independent of compliance activities or management; 5. Independent verifications: often more focused and detailed, evaluations by parties independent of compilation of information or data; often done for periodic submittals (such as quarterly compliance certifications or annual reports); or 6. Quality Assurance Review: the Institute of Internal Auditors Standard 1310, effective December 31, 2002, requires Quality Assurance Reviews (QARs) of internal auditing functions once every five years. This “layered” approach of compliance management, oversight, and governance practices has been designed and effectively applied to financial matters and to other matters (including environmental) for operations, (financial and non-financial) reporting, and compliance. Independence is an essential element of auditing, whether via appropriate parties internal to the organization or qualified third parties. The EPA has long acknowledged the value of independent procedures to improve compliance, as evidenced by Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations (“EPA Auditing Policy Statement”), published in the April 11, 2000 Federal Register – an update of a policy originally published in 1995. With the costs that are likely to be required to implement pollution controls, develop technology, and/or trade emissions, programs to reduce GHG emissions are both environmental and financial. Failing to acknowledge the existence of standard practices of good governance, and failing to provide incentives for companies to adopt them, risks the implementation of poor practices, reliance on poor data or management practices, and, ultimately, the inability to determine whether goals have been met. It also undermines the standard good governance principles that have evolved via collaboration and necessity to address enterprise risk management. These developments would undermine the credibility of the program. And, significantly, the improvements to the environment. In considering third party verification of

greenhouse gas emissions, there has been concern expressed as whether a sufficient number of qualified professionals are available to perform these verifications [the Auditing Roundtable notes that this could be a concern whether the activity were verification or other auditing activity). A related concern is whether there are relevant or adequate training programs for individuals in this distinctive profession. The Auditing Roundtable and the Institute of Internal Auditors (see) shared this concern many years ago, recognizing the field as a specialty, with professional obligations to the profession and the public at large. The Auditing Roundtable and the Institute of Internal Auditors had the foresight to create the Board of Environmental Auditor Certifications (see ,www.beac.org respectively) as an independent certifying entity. BEAC grants and oversees the Certified Professional Environmental Auditor (CPEA) designation, subject to high standards and passing a rigorous examination. Furthermore, the creation of BEAC – over a decade ago – recognizes that individuals providing these services should meet high standards, should commit to a code of ethics and rigorous practices, must continue their professional education, and should be subject to review. The Auditing Roundtable, again foreseeing the value of the Environmental Auditing profession to the Environmental field and society at large, invested in a series of training programs focusing on the specialized nature of Environmental Auditing, and, in part to prepare environmental professionals, for the challenges of the field and the standards and rigor of being a CPEA. These practices are already in place, and have been an integrated part of environmental auditing. While the Auditing Roundtable understands that the regulated community may object to comprehensive mandatory verifications, we believe that laws, regulations, and policies governing reporting, trading, or reductions should include provisions for independent auditing, verification, and good governance. While laws and regulations need not specify mandatory practices, they should instruct the EPA to acknowledge these practices, and to include significant incentives for companies to adopt the full range of good governance practices. The EPA, the regulated community, and the public at large can take comfort that there are well-established leading professional associations dedicated to Environmental Auditing, and that we are prepared and able to help increase the confidence in data in the GHG Registry.

Response: The final rule retains self-certification with EPA verification. EPA is currently developing a vigorous verification process to ensure the accuracy, comparability, and quality of data across all source categories. As we develop our verification process, we take into consideration your comments regarding the benefits of internal auditing. For additional information on EPA's approach to verification, see Section II.N of the preamble.

Commenter Name: Douglas Hileman
Commenter Affiliation: Douglas Hileman Consulting LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0704.1
Comment Excerpt Number: 2

Comment: The profession of Internal Auditing, via groups such as the Institute of Internal Auditors (see www.theiia.org), has developed or supported frameworks for internal controls and for enterprise risk management. Frameworks designed by the Committee of Sponsoring Organizations are designed to be subject-neutral; they can be – and have been – successfully applied to environmental matters – either for entire programs, or portions thereof (see www.coso.org for more on these frameworks). Standard governance practices include a range of functions and activities, including: Inspections: standard requirements of many laws and regulations; Self-reviews and approvals: standard activities and internal controls, performed prior to compliance submittals; Self-assessments: periodic inspections or checks by functional groups

with operating or compliance responsibilities; Audits: periodic independent evaluations of aspects of compliance, operations, or reporting; performed by parties independent of compliance activities or management; Independent verifications: often more focused and detailed, evaluations by parties independent of compilation of information or data; often done for periodic submittals (such as quarterly compliance certifications or annual reports); or Quality Assurance Review: the Institute of Internal Auditors Standard 1310, effective December 31, 2002, requires Quality Assurance Reviews (QARs) of internal auditing functions once every five years. This "layered" approach of compliance management, oversight, and governance practices have been designed and effectively applied to financial matters and to other matters (including environmental) for operations, (financial and non-financial) reporting, and compliance. Independence is an essential element of auditing, whether via appropriate parties internal to the organization or qualified third parties. The EPA has long acknowledged the value of independent procedures to improve compliance, as evidenced by Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations ("EPA Auditing Policy Statement"), published in the April 11, 2000 Federal Register – an update of a policy originally published in 1995. With the costs that are likely to be required to implement pollution controls, develop technology, and/or trade emissions, programs to reduce GHG emissions are both environmental and financial. Failing to acknowledge the existence of standard practices of good governance, and failing to provide incentives for companies to adopt them, risks the implementation of poor practices, reliance on poor data or management practices, and, ultimately, the inability to determine whether goals have been met. It also undermines the standard good governance principles that have evolved via collaboration and necessity to address enterprise risk management. These developments would undermine the credibility of the program. And, not insignificantly, the improvements to the environment. During my tenure at a major public accounting firm, I supported financial audit teams through six audit cycles – beginning 2002, when companies had to develop or upgrade their policies, procedures, and internal controls to meet the requirements of Sarbanes-Oxley. During this timeframe, and in waves that followed (to comply with accounting rules on Asset Retirement Obligations and Conditional Asset Retirement Obligations), environmental professionals developed compliance and management that included periodic independent evaluation to meet regulatory requirements. These practices also had the advantage of providing more rigorous controls; many of my clients, once they examined these processes, found ways to do things more efficiently. I also worked through Internal Audit channels, whereby environmental auditing skills were applied to assess compliance, risks, or governance of a range of components of environmental and related areas.

Response: The final rule retains self-certification with EPA verification. EPA is currently developing a vigorous verification process to ensure the accuracy, comparability, and quality of data across all source categories. As we develop our verification process, we take into consideration your comments regarding the benefits of internal auditing. For additional information on EPA's approach to verification, see Section II.N of the preamble.

Commenter Name: Mike Aire
Commenter Affiliation: Newmont Mining Corporation (NMC)
Document Control Number: EPA-HQ-OAR-2008-0508-0378.1
Comment Excerpt Number: 5

Comment: Newmont supports the "self verification" of data as opposed to a requirement for third party verification as it would be advantageous to reporting entities in minimizing costs to achieve compliance. Accordingly, Newmont does not support third party verification

requirements for reporters. However, if EPA does not grant "self-verification", Newmont supports a waiver that allows The Climate Registry (TCR) verified inventories to be accepted in lieu of EPA verification. Companies voluntarily reporting to TCR should be granted a verification waiver by the EPA since TCR's verification protocol complies with clear instructions for executing a standardized approach that promotes the completeness, consistency, comparability, accuracy, and transparency of emissions data. By accepting TCR verified inventories, EPA would save costs by reducing the number of reports requiring EPA verification.

Response: See the preamble for the full responses on the emissions verification approach, the role of States, and relationship of this rule to other programs. A waiver has not been granted for companies reporting to TCR. EPA has determined that direct submittal to EPA of annual emissions information and the data necessary to verify emissions will best ensure the availability of consistent, verified data for use in a timely fashion. EPA intends to work with the States to develop an efficient and timely system to share data and reduce the burden on reporters. EPA has considered the possibility of waiving verification for companies reporting to TCR and has decided not to do so. However, we do intend to develop coordinated verification approaches among programs that will reduce the burden and increase effectiveness.

Commenter Name: Sam Chamberlain
Commenter Affiliation: Murphy Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0625
Comment Excerpt Number: 8

Comment: EPA is considering three different approaches to verify GHG emission reports. These three include: 1) Self-certification without independent verification, 2) Self-certification with third-party verification and 3) Self-certification with EPA verification. EPA proposes to adopt option three, but seeks additional input. Murphy recognizes the need to verify data for accuracy, as well as determine the costs and impacts both to the reporter and to EPA. The use of the "Responsible Official" is a widely accepted, proven and useful mechanism for certifying the data is accurate and complete for many federal and EPA programs. This mechanism also provides the opportunity to make any and all data certified by the Responsible Official available to the agency in a timely manner, and is not overly burdensome or costly. Murphy supports Option 1) Self –certification without independent verification. This option is premised on the successful use of a Responsible Official to certify the data is accurate, complete and available in a timely fashion, should it be necessary to produce the data. The Responsible Official is typically the plant manager of a facility or the Vice President of the Corporation who has both a fiduciary and legal responsibility for their positions to maintain truthful, accurate accounting of their areas of responsibility. Therefore, there is overwhelming and compelling evidence to not require the implementation of either Option two or Option three.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: J. Jared Snyder
Commenter Affiliation: New York State Department of Environmental Conservation
Document Control Number: EPA-HQ-OAR-2008-0508-1184
Comment Excerpt Number: 4

Comment: The key considerations in developing reliable GHG emissions data depend upon the primary purpose and intended use of the data. The stated goal of the proposed mandatory reporting program is to provide comprehensive and accurate data that would inform climate change policies, and given that specific policies are currently unknown, the proposed reporting system should be of sufficient quality to support a range of approaches. As EPA moves toward regulating GHG emissions through programs that result in the creation of emission credits or allowances, EPA needs to determine if additional reporting requirements will be necessary under those regulatory programs, and if that reporting can be used to satisfy EPA's currently proposed reporting requirements. The United States has a history of successful cap-and-trade programs including the Acid Rain Program and the regional NO Budget Trading Program. Enactment of a cap-and-trade program for GHGs is becoming more likely given the success demonstrated under RGGI and the House Energy and Commerce Committee's approval of The American Clean Energy and Security Act. Therefore, the Department urges EPA to carefully consider the scope and quality of data collection needed to support a cap-and-trade system, keeping in mind that emissions of each ton of GHGs will have a monetary value, and develop a reporting system that ensures the integrity of reported data. TCR has found that third-party verification cost-effectively ensures accurate and consistent data. The Department further recommends that EPA conduct a thorough analysis of data reported in support of regulatory programs to determine whether verification by a certified third-party, self-certification and/or EPA or state performed verification is appropriate.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: B. Lee Kindberg
Commenter Affiliation: Maersk, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0427.1
Comment Excerpt Number: 5

Comment: Verification requirements cannot be defined until the purpose is clearly identified. Such requirements could range from information quality assurance to compliance demonstrations and enforcement, to the market requirements of a "cap and trade" system. Our limited experience with verification in voluntary programs has shown that verification systems to support each of these needs would differ significantly in extent, requirement for internal or third-party certification, organizational expertise requirements and costs/resources required. The Agency should carefully consider these costs and the infrastructure available to provide such verification before defining requirements.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: James Sims
Commenter Affiliation: Western Business Roundtable
Document Control Number: EPA-HQ-OAR-2008-0508-1038.1
Comment Excerpt Number: 6

Comment: The Roundtable strongly supports self-certification. EPA has already designed and implemented a cost-effective approach for self-certification of emissions data under its CAA

Acid Rain Program. That model has been in place for a substantial period of time and we believe is a good structure for verification of GHG emissions reporting as well. It is based on explicit technical requirements and is backed up by the CAA's compliance regime. Further, using the same verification approach as is required under other CAA programs will help assure consistency in submitted data.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Delaine W. Shane
Commenter Affiliation: Metropolitan Water District of Southern California (MWD)
Document Control Number: EPA-HQ-OAR-2008-0508-0551.1
Comment Excerpt Number: 6

Comment: The proposed rule does not include a requirement for independent, trained verification of data as does CCAR and CARB reporting. Data verification is a large task for EPA to handle, considering the number of entities reporting and amount of data. As an option, EPA could consider allowing reporting entities to utilize an independent verifier (from an approved EPA, state, or registry list) or as an alternative, to use EPA as the verifier.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Dale Backlund, Regulatory Affairs Leader, The DOW Chemical Company and Victoria Evans, National Practice Leader for Greenhouse Gases, URS Corporation
Commenter Affiliation: none
Document Control Number: EPA-HQ-OAR-2008-0508-1338
Comment Excerpt Number: 7

Comment: The EPA's verification system for GHG inventories is only minimally defined and would benefit from further development. The current provisions read similarly to an EPA regulatory audit.

Response: See the preamble for the response on the emissions verification approach.

Commenter Name: Catherine H. Reheis-Boyd
Commenter Affiliation: Western States Petroleum Association (WSPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0983.1
Comment Excerpt Number: 3

Comment: EPA's requirement for agency verification is problematic for four reasons. First, it is inconsistent with the other verification procedures that are currently in place in California and with other carbon registries and would result in duplicate verification efforts. Second, it would impose huge data management and transmission issues for the facility. Third, it creates significant confidentiality issues relative to the transmittal of confidential business information. And lastly, verification by USEPA staff generates a significant staff time commitment. EPA verification would create a huge agency obligation to manage and review literally thousands, if

not tens of thousands, of individual data points from each of the hundreds of complex petroleum facilities that will be reporting under the regulation. This figure does not even include reports from other complex reporting sectors. In addition, the use of EPA staff as verifiers as proposed in the Rule opens up the real question of the protection of confidential business information. EPA's approach also requires the submittal of all the underlying data used to calculate emissions. Specifically, every carbon content analysis (a daily requirement for refinery fuel gas) and daily average flow rate would require reporting of at least 365 times MORE DATA than required by either CARB regulations or WCI and The Climate Registry protocols. This obligation would create significant data management issues because of the sheer size of the data sets - not to mention the duplicate reporting efforts. In addition, no matter what shape the final EPA program takes, it must also include a platform that allows reporters to electronically upload their data from their systems directly into the reporting tool. Recommendation: In the early reporting years verification may not be necessary. However, when there are market implications to the accuracy of emissions data, it will be important to include 3rd party auditing in the mandatory reporting program.

Response: The final rule retains self-certification with EPA verification. EPA disagrees that the verification requirements are duplicative for facilities subject to other mandatory reporting rules (e.g., CARB or WCI). Although there are similarities between the monitoring methods, none of the other mandatory programs are identical to this rule in scope and specific monitoring, quality assurance, and reporting requirements. However, EPA intends to work with States and others to support harmonization across programs to the extent possible. See the preamble for discussion of the role of States and the relationship of this rule to State programs.

We also disagree that verification is unnecessary until a market-based program is in place or that third party verification is the only approach that ensure high quality data (see the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5 for additional discussion of this issue).

EPA also disagrees that transmittal of data creates significant confidentiality issues for sources. For information on how EPA plans to handle CBI, see Section II.R of the preamble.

EPA has changed the carbon content analysis requirements for different fuels to increase flexibility, for more information about those changes please see section III. C of the preamble, subpart C of 40 CFR 98 and the response to comments document on General Stationary Fuel Combustion Sources.

Commenter Name: Bill Thompson
Commenter Affiliation: National Tribal Air Association (NTAA)
Document Control Number: EPA-HQ-OAR-2008-0508-1144.1
Comment Excerpt Number: 5

Comment: One of the most important aspects of TCR's voluntary reporting program is its requirement of annual third-party verification of GHG data. Third-party verification is the systematic, independent, and documented process for the evaluation of a GHG emission report against agreed upon verification criteria. This process is similar to an audit of financial statements—it is an external attestation to the quality and accuracy of the reported emissions. Contrary to the Registry, the proposed GHG reporting rule relies on self-certification from affected facilities with the EPA conducting verification, an approach which the NTAA considers problematic as the data will be entered in a registry that will one day interface with a federal cap-

and-trade program and possibly international programs as well. For these programs to be effective, they will require data that is fully vetted and accurate. Unfortunately, the Agency is already overtaxed by its day-to-day responsibilities, and to add to these responsibilities the verification of emissions from the more than 13,000 facilities covered under the rule, it's unlikely that the verification process will be very rigorous or of high quality. The NTAA therefore recommends that the EPA require third-party verification of these emissions, much like TCR, thereby providing better assurances that the registry data will be accurate and also freeing up the Agency to perform its current and very important day-to-day duties, many which impact the health and welfare of the nation's Indian tribes and Alaska Native villages.

Response: The final rule retains self-certification with EPA verification. For the response to the comment regarding the burden verification places on the Agency, see response to comment EPA-HQ-OAR-2008-0508-0212r, excerpt 5. For the response to the comment questioning whether EPA's verification approach will provide high quality data, see the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5.

Commenter Name: Richard F. Chambers
Commenter Affiliation: Institute of Internal Auditors
Document Control Number: EPA-HQ-OAR-2008-0508-0758.1
Comment Excerpt Number: 1

Comment: We commend the EPA for its plans to address weaknesses in corporate governance but note that the proposed rule did not include requirements or provisions for auditing or independent verification of GHG emissions in the context of compliance, reporting, or emissions reductions goals. Internal auditing is a well-established profession, and offers much to improve the confidence in and reliability of this important data. The IIA believes that the omission of any reference to or provisions of independent activities of any kind is a significant flaw. The IIA suggests the EPA address internal auditing, independent verification, and oversight, all standard governance practices in the field of internal auditing as part of any regulation, rule, or policy. Overall, we believe there is a need for robust risk management efforts in organizations, attestations by management as to their effectiveness, and assessment by internal auditing of their proper functioning.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Mary D. Nichols
Commenter Affiliation: California Air Resources Board (CARB)
Document Control Number: EPA-HQ-OAR-2008-0508-0616.1
Comment Excerpt Number: 1

Comment: One difference between the CARB regulation and U.S. EPA's proposed rule relates to independent third party verification of emission reports. California requires third party verification because we believe this approach will ensure high quality data, is consistent with international standards, and would support a cap-and-trade program. Emission sources are highly diverse and often complex. Independent review would help ensure compliance with the rigorous quantification methods. Although U.S. EPA's proposed rule was not specifically designed to support a cap-and-trade program, we believe a strong verification or auditing program is

essential for that purpose. In anticipation of a federal cap-and-trade program, U.S. EPA should consider third party verification.

Response: For the response to the comment questioning the ability of EPA's verification approach to ensure high quality data that is consistent with international standards, see the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5. See Section I of the preamble for a discussion of the reasons for developing the rule.

Commenter Name: Mark Schwarz
Commenter Affiliation: Board of Environmental, Health & Safety Auditor Certifications (BEAC)
Document Control Number: EPA-HQ-OAR-2008-0508-0560.1
Comment Excerpt Number: 1

Comment: The omission of provisions for independent activities of any kind by certified professionals is a significant error. BEAC suggests the EPA mention independent auditing, verification, and oversight by certified professionals – all standard governance practices in the field of internal and external auditing – as part of any regulations, rules, or policies. BEAC is an independent, nonprofit corporation established in 1997 to issue professional certifications relating to environmental, health, and safety auditing and other scientific fields (www.beac.org). BEAC was originally created as a joint venture between The Institute of Internal Auditors (The IIA) and the Auditing Roundtable, Inc. (AR) BEAC is a member of the Council of Engineering and Scientific Specialty Boards (CESB), a third-party accreditation board. The CESB has granted full accreditation to BEAC's Certified Professional Environmental Auditor (CPEA) certification. On December 5, 2003, the U.S. Department of Energy in its Proposed Rule, General Guidelines for Voluntary Greenhouse Gas Reporting, recognized the BEAC certification as meeting its requirements. Standard governance practices include a range of functions and activities, including: * Inspections: standard requirements of many laws and regulations; * Self-reviews and approvals: standard activities and internal controls, performed prior to compliance submittals; * Self-assessments: periodic inspections or checks by functional groups with operating or compliance responsibilities; * Audits: periodic independent evaluations of aspects of compliance, operations, or reporting; performed by parties independent of compliance activities or management; * Independent verifications: often more focused and detailed, evaluations by parties independent of compilation of information or data; often done for periodic submittals (such as quarterly compliance certifications or annual reports); or * Quality Assurance Review: The IIA Standard 1310, effective December 31, 2002, requires Quality Assurance Reviews (QARs) of internal auditing functions once every five years. This "layered" approach of compliance management, oversight, and governance practices has been designed and effectively applied to financial matters and to other matters (including environmental) for operations, financial and non-financial reporting, and compliance. Independence is an essential element of auditing, whether via appropriate parties internal to the organization or qualified third parties. The EPA has long acknowledged the value of independent procedures to improve compliance, as evidenced by Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations ("EPA Auditing Policy Statement"), published in the April 11, 2000 Federal Register – an update of a policy originally published in 1995. With the costs that are likely to be required to implement pollution controls, develop technology, and/or trade emissions, programs to reduce GhG emissions are both environmental and financial. Failing to acknowledge the existence of standard practices of good governance, and failing to provide incentives for companies to adopt them, risks the implementation of poor practices, reliance on poor data or management practices,

and, ultimately, the inability to determine whether goals have been met. It also undermines the standard good governance principles that have evolved via collaboration and necessity to address enterprise risk management. These developments would undermine the credibility of the program, and the improvements to the environment.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5.

Commenter Name: Diane S. Shea
Commenter Affiliation: American Council of Engineering Companies (ACEC)
Document Control Number: EPA-HQ-OAR-2008-0508-0648.1
Comment Excerpt Number: 1

Comment: The proposed rule notes that EPA is proposing self-certification with EPA verification (Option 3). The agency's rationale is generally that the approach is similar to other EPA air pollution emission programs, and that reporting GHG emissions should be similar. We respectfully disagree. Greenhouse gas emissions will not be as easy to measure as other primary pollutants and emissions data collection will be a novel undertaking for many covered facilities. Given the expected monetary value of greenhouse gas reduction credits and allowances, the opportunity for fraud will be very large. It will be critical to the integrity of the carbon market that develops as a result of federal legislation that emissions are quantified with accuracy and credibility. ACEC recommends that EPA select Option 2, self-certification with third-party verification. Many of ACEC-member companies already provide carbon "footprinting" and other voluntary GHG emissions data collection reporting services to corporate clients, municipalities and educational institutions. Most ACEC firms that perform such services have been accredited as independent product verifiers, assuring that accuracy and independent analysis is guaranteed. In order to be accredited to the international GHG verification standards verifiers are required to show technical competency and independence by passing rigorous testing and conflict-of-interest auditing requirements. It is in the interest of verification bodies to provide consistent standards and transparent processes, motives that may not be as strong for reporting facilities. In addition, independent third-party verification is necessary to ensure that EPA's emission reporting system is trustworthy. For this reason, California, the European Union's Emissions Trading System, the United Kingdom's GHG Emissions Trading System, and most voluntary U.S. climate registries all require external review of data submissions. We believe that a mandatory U.S. greenhouse gas reporting requirement should be consistent with other GHG reporting programs. We also believe that third-party reviews have proven to be effective and efficient since verifiers can be obtained from locations that are near the facilities subject to reporting requirements. While a requirement for third-party verification would most likely impose small increases in costs to reporting facilities, it would also create a large number of jobs in the private sector. Using EPA-only personnel to audit emissions reporting by a reporting facility, requiring regional or headquarters staff to travel to the collection location could be very costly to taxpayers and time-consuming for the agency.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Richard F. Chambers
Commenter Affiliation: Institute of Internal Auditors
Document Control Number: EPA-HQ-OAR-2008-0508-0758.1
Comment Excerpt Number: 2

Comment: Internal auditing, via The Institute of Internal Auditors (see www.theiia.org), has supported the development of frameworks for internal controls and enterprise risk management. Frameworks designed by the Committee of Sponsoring Organizations of the Treadway Commission are designed to be subject-neutral; they can be, and have been, successfully applied to environmental matters, either for entire programs, or portions thereof (see www.coso.org for more on these frameworks). Standard governance practices include a range of functions and activities, including: inspections (standard requirements of many laws and regulations); Self-reviews and approvals (standard activities and internal controls, performed prior to compliance submittals); self-assessments (periodic inspections or checks by functional groups with operating or compliance responsibilities); audits (periodic evaluations of aspects of compliance, operations, or reporting); performed by parties independent of compliance activities or management; independent verifications (often more focused and detailed, evaluations by parties independent of compilation of information or data, and often done for periodic submittals (such as quarterly compliance certifications or annual reports)); External Quality Assessments (Standard 1312 of the International Standards for the Professional Practice of Internal Auditing, requires an external assessment of internal auditing activities at least once every five years); Government Audit Standards (Quality Control and Assurance, 3.50. Each audit organization performing audits or attestation engagements in accordance with GAGAS must: (a) establish a system of quality control that is designed to provide the audit organization with reasonable assurance that the organization and its personnel comply with professional standards and applicable legal and regulatory requirements, and (b) have an external peer review at least once every 3 years.). This "layered" approach of compliance management, oversight, and governance practices have been designed and effectively applied to financial matters, as well as operations (including environmental issues, financial and non-financial reporting, and compliance. Independence is an essential element of auditing, whether performed via appropriate parties internal to the organization or qualified external service providers. The EPA has long acknowledged the value of independent procedures to improve compliance, as evidenced by Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations ("EPA Auditing Policy Statement"), published in the April 11, 2000, Federal Register (an update of a policy originally published in 1995). With the costs that are likely to be required to implement pollution controls, develop technology, and/or trade emissions, programs to reduce GHG emissions are both environmental and financial. Failing to acknowledge the existence of standard practices of good governance and failing to provide incentives for companies to adopt them, risks the implementation of poor practices, reliance on poor data or management practices, and, ultimately, the inability to determine whether goals have been met. It also undermines the standard good governance principles that have evolved via collaboration and necessity to address enterprise risk management. These developments would undermine the credibility of the program, and not insignificantly, the improvements to the environment. In considering third party verification of greenhouse gas emissions, there has been concern expressed as whether a sufficient number of qualified professionals are available to perform these verifications. A related concern is whether there are relevant or adequate training programs for individuals in this distinct profession. The IIA and the Auditing Roundtable (AR) shared this concern many years ago, recognizing the field as a specialty, with professional obligations to the profession and the public at large. The IIA and the AR had the foresight to create the Board of Environmental Auditor Certifications (see www.beac.org, respectively) as an independent certifying entity.

BEAC grants and oversees the Certified Professional Environmental Auditor (CPEA) designation, subject to high standards and passing a rigorous examination. Furthermore, the creation of BEAC, over a decade ago, recognizes that individuals providing these services should meet high standards, should commit to a code of ethics and rigorous practices, must continue their professional education, and should be subject to review. The AR, again foreseeing the value of the environmental auditing profession to the environmental field and society at large, invested in a series of training programs focusing on the specialized nature of environmental auditing, and, in part to prepare environmental professionals, for the challenges of the field and the standards and rigor of being a CPEA. These practices are already in place, and have been an integrated part of environmental auditing. While The IIA understands that the regulated community may object to comprehensive mandatory verifications, we believe that laws, regulations, and policies governing reporting, trading, or reductions should include provisions for internal auditing, independent verification, and good governance. While laws and regulations need not specify mandatory practices, they should instruct the EPA to acknowledge these practices, and to include significant incentives for companies to adopt the full range of good governance practices. The EPA, the regulated community, and the public at large can take comfort that there are well-established leading professional associations dedicated to environmental auditing, and that we are prepared and able to help increase stakeholder's confidence in data within the GHG Registry.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Alice Edwards
Commenter Affiliation: Alaska Department of Environmental Conservation (ADEC)
Document Control Number: EPA-HQ-OAR-2008-0508-0720.1
Comment Excerpt Number: 4

Comment: ADEC is concerned that EPA's mandatory GHG reporting rule does not insure a sufficiently high level of data quality and consistency. The proposed rule provides for reporters to self-certify combined with EPA data verification. Given Congress' recent and rapid efforts on Climate Change legislation, it appears clear that a cap-and-trade system will be a likely control for GHG emissions. The proposed rule's data validation and verification process appears to be inadequate to support the needs of a market-based GHG trading program. EPA should reconsider its approach and consider third party verification for sectors that cannot rely on continuous emissions monitoring for GHG emission reporting.

Response: See the preamble for the full response on the emissions verification approach.

Commenter Name: Douglas P. Scott
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0567.2
Comment Excerpt Number: 6

Comment: The Registry encourages the EPA to consider additional potential options for strengthening its verification program. Although EPA briefly considered third party verification in its draft proposal, The Registry encourages EPA to consider additional alternatives to utilizing third-party verifiers beyond those options discussed in the draft proposal. Specifically, The

Registry urges EPA to consider utilizing international standards for third-party verification and accreditation (ISO 14064-3 and ISO 14065, respectively) and partners such as ANSI to ensure consistent high quality verification activities throughout the US. EPA recently utilized ANSI's accreditation services to implement certification requirements for its Water Sense program, and EPA may wish to consider such a model for GHG verification as well. The Registry has had success using international verification and accreditation standards and encourages EPA to give them their full consideration in establishing credible verification and accreditation programs. If EPA were to leverage established and credible programs, such as The Climate Registry and ANSI, EPA could reduce its workload by simply specifying any additional requirements or exceptions to these existing programs. Further, EPA may wish to examine alternatives to annual third-party verification, such as biennial or triennial verification, verification of specific source categories or facilities, or verification of specific threshold levels of emissions. The Registry welcomes the opportunity to share with EPA more information and details about The Registry's experience with designing and implementing a GHG verification and accreditation program.

Response: See the preamble for the full response on the emissions verification approach.

Commenter Name: William Yanek
Commenter Affiliation: Glass Association of North America (GANA)
Document Control Number: EPA-HQ-OAR-2008-0508-0586.1
Comment Excerpt Number: 5

Comment: EPA proposes, as the verification procedure for assuring the accuracy and completeness of the reported GHG data, that reporters self-certify the data and that EPA review the submitted emission estimates and supporting data and undertake steps to verify the accuracy and completeness of those data. 74 Fed. Reg. at 16477. GANA agrees with and fully supports this option, but only to the extent EPA consents to preempt all other similar state and regional GHG reporting programs as GANA requests in the preceding section of these Comments. In the absence of such preemption, GANA respectfully requests EPA to modify its proposed rule to accept submitted emissions data without subsequent EPA verification as long as those data have been verified through an existing state- or regionally-mandated third-party verification procedure. California's GHG emissions reporting program has, for instance, such a mandatory third-party verification component. GANA respectfully submits it would be unduly burdensome and unnecessary for a glass manufacturing site located in California, for example, to provide its emissions report, along with all data necessary for verification of the contents of that report, to two different entities, EPA and CARB, for the same purpose, independent verification. The resulting double verification of the same data would produce little or no additional benefit. Because the requirements for third-party verification specified in state and regional programs such as CARB's AB-32 reporting program are more stringent than those in EPA's proposed verification plan, acceptance of third-party verification secured through compliance with such a state reporting program, in lieu of subjecting the data to another redundant EPA verification, would ensure the accuracy and completeness of the data.

Response: The final rule retains self-certification with EPA verification. EPA disagrees with the commeter's statement that third party verification is more stringent than EPA's verification approach (see the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5 for additional information). EPA intends to work with States and others to support harmonization across programs to the extent possible. See the preamble for discussion of the role of States and the relationship of this rule to State programs. As discussed in the preamble, this reporting rule

does not preempt or replace State rules, and EPA affirms that States can collect additional data under State rules and programs. For a full response to this and other comments on preemption of state rules, see the volume of this document titled "Legal Issues".

Commenter Name: Steven J. Rowlan
Commenter Affiliation: Nucor Corporation (Nucor)
Document Control Number: EPA-HQ-OAR-2008-0508-0605.1
Comment Excerpt Number: 14

Comment: Nucor does not support the concept of third-party verification. The United States has a long history of self-reporting in both tax and environmental matters. In general, this system has worked admirably and effectively. EPA has adduced no reason, and Nucor is not aware of any, why the self-reporting system backed, as it would be, with penalties for false statement, is not sufficient.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Stuart A. Clark
Commenter Affiliation: Washington State Department of Ecology (Ecology)
Document Control Number: EPA-HQ-OAR-2008-0508-0646.1
Comment Excerpt Number: 6

Comment: EPA should require third-party party verification for sources above 25,000 MTCO2e: EPA proposes to require EPA verification of reporting data to ensure data accuracy and integrity. Ecology agrees that a level of verification is critical to ensure that reporting data are accurate; however we believe that such verification is better accomplished through the use of third-party verifiers. This is particularly important for sources of emissions greater than 25,000 MTCO2e, which are of a scale likely to be covered by regional or national GHG emission reduction programs. GHG reporting verification requires specialized technical expertise; it is better handled by consultants who are specialists in such a field than EPA or state staff. While Ecology appreciates EPA's expertise in verifying emissions in the acid rain program, that program is far smaller and less complex than that anticipated in the proposed reporting rule. We are concerned that EPA will fast lack adequate staff and resources to verify and audit emission reports from thousands of reporters, which in turn causes accuracy of the data reported to slip. EPA also notes concerns by industry stakeholders regarding the costs of third-party verification. There has been much speculation in the past regarding third-party verification costs. Until recently, there were few certified verifiers outside of California and certification standards were still evolving. With the advent of new programs requiring GHG emission reporting, certification standards have been better established, and the number of certified verifiers has grown. As a result, the costs associated with third-party verification have significantly decreased, and are worth the costs given the level of data accuracy required for a functioning program.

Response: For the response to the comment on the ability of EPA's verification program to ensure high quality data, see the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5. For the response to the comment on the burden emissions verification places on the Agency, see the response to comment EPA-HQ-OAR-2008-0508-0212r, excerpt 5.

Commenter Name: David Stirpe
Commenter Affiliation: Alliance for Responsible Atmospheric Policy (ARAP)
Document Control Number: EPA-HQ-OAR-2008-0508-0527.1
Comment Excerpt Number: 9

Comment: The Alliance believes that self-reporting is adequate and we do not support third party audits as a manner of reporting.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Keith Adams
Commenter Affiliation: Air Products and Chemicals, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-1142.1
Comment Excerpt Number: 10

Comment: EPA discusses in the Preamble to the proposed rule three options the agency considered regarding the verification of the reported GHG emission data. Air Products supports option 1 "self-certification without independent verification" and opposes options 2 and 3. We agree with EPA that a self-certified facility is sufficient without any third party verification for the stated purposes of this reporting rule. Option 1 would best fit both industry's and EPA's needs because this option would forgo the immense effort that would be required to verify all of the extremely detailed information that would be submitted to the EPA if option 2 or 3 were selected, therefore lowering the burden for both industry and EPA. In addition, if third party verification were required, EPA would still have to put together verification requirements, and would have to review, audit, and conduct oversight analysis to ensure the verifications are done correctly. This presents a huge burden to the EPA. By requiring third party verification, or requiring EPA to act as verifier for all reports, there is a likelihood that the length of time for verification could result in long delays in making the data publically available. Air Products acknowledges that significant recordkeeping will be required by affected facilities. These records should remain with the reporting facility, and if the need were to arise where EPA would inquire to see the records for a compliance inspection, these records can then be produced. The designated representative at the facility would still certify the truthfulness and accuracy of the information. This is very similar to the process under the Toxic Release Inventory. This is a huge burden relief for both parties, while still maintaining the integrity of the emission estimates through EPA inspections or audits. It is important to remember that this is a reporting rule requiring only the submission of GHG data to provide support for future legislative or regulatory developments. As long as this remains a reporting rule and not a registry or other compliance-focused program, Air Products opposes the requirement of verification by a third party.

Response: The final rule retains self-certification with EPA verification. Facilities will be required to report to EPA the data required for emissions verification. See the preamble for the full response on the emissions verification approach. The preamble also contains responses on the general content of the annual report and on recordkeeping requirements.

Commenter Name: Jeff A. Myrom
Commenter Affiliation: MidAmerican Energy Holdings Company
Document Control Number: EPA-HQ-OAR-2008-0508-0581.1
Comment Excerpt Number: 11

Comment: MidAmerican submits that self-certification, with spot checks by EPA, is appropriate for actual data verification. Third-party verification has not been required (or needed) for emissions reporting programs such as the Acid Rain program, and will add significant costs and time delays to GHG emissions data reporting to EPA. Furthermore, reporting entities have existing incentives to accurately and timely report greenhouse gas emissions through the provisions of the Clean Air Act which provides the potential for imposition of fines of up to $32,500 per day as well as other administrative, civil, and criminal measures for reporters that do not report accurately and in good faith. Not only does third-party verification not guarantee accurate reporting (just as being ISO 14001 certified does not guarantee that a facility is in compliance), third-party verification could pose a significant complication in the imposition of such remedies under the Clean Air Act—would EPA seek penalties against the reporting facility or the verifying entity? MidAmerican does not recommend third-party verification and believes it is unnecessary.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: David Rich
Commenter Affiliation: World Resources Institute (WRI)
Document Control Number: EPA-HQ-OAR-2008-0508-0642.1
Comment Excerpt Number: 13

Comment: Verification is critical to ensuring that reported data is accurate and complete. The verification requirements must be rigorous enough to ensure that reported data is of sufficient quality to meet all current and anticipated policy needs, regardless of whether EPA or third-party verifiers are responsible for carrying out verification. Most important is the ultimate goal of ensuring high quality emissions data. EPA should ensure that it has sufficient capacity to thoroughly verify reported emissions data so that the quality of reported data achieved through agency verification is of sufficient quality to meet all current and anticipated policy needs, and is as rigorous, accurate and complete as third-party verification systems (e.g., California's mandatory reporting program, TCR, EU-ETS, and CCAR). Robust verification is likely to require that reporting entities submit additional data elements beyond emissions data to facilitate the verification process. WRI expects that EPA will build from past experience using agency verification under the Acid Rain Program. EPA should consider requiring third-party verification if agency verification does not yield the quality of reported data necessary to inform and support a range of emerging GHG policies. In particular, a federal cap-and-trade program is likely to require a high level of assurance in reported data, so that market participants have confidence in the integrity of the program.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Douglas Hileman
Commenter Affiliation: Douglas Hileman Consulting LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0704.1
Comment Excerpt Number: 3

Comment: In considering third party verification of greenhouse gas emissions, there has been concern expressed as whether a sufficient number of qualified professionals are available to perform these verifications. A related concern is whether there are relevant or adequate training programs for individuals in this distinctive profession. The Auditing Roundtable and the Institute of Internal Auditors (see www.theiia.org) shared this concern many years ago, recognizing the field as a specialty, with professional obligations to the profession and the public at large. The Auditing Roundtable and the Institute of Internal Auditors had the foresight to create the Board of Environmental Auditor Certifications (see www.beac.org, respectively) as an independent certifying entity. BEAC grants and oversees the Certified Professional Environmental Auditor (CPEA) designation, subject to high standards and passing a rigorous examination. I've taken the exam, and even after 25 years in the field, it was no cakewalk! Furthermore, the creation of BEAC – over a decade ago – recognizes that individuals providing these services should meet high standards, should commit to a code of ethics and rigorous practices, must continue their professional education, and should be subject to review. The Auditing Roundtable, again foreseeing the value of the Environmental Auditing profession to the Environmental field and society at large, invested in a series of training programs focusing on the specialized nature of Environmental Auditing, and, in part to prepare environmental professionals, for the challenges of the field and the standards and rigor of being a CPEA. These practices are already in place, and have been an integrated part of environmental auditing. I'd note that the concern of sufficiency and adequacy of resources was also expressed at the outset of Sarbanes-Oxley; yet the profession found ways to identify and train professionals, to align less experienced staff with more senior/ experienced staff. The quality of the underlying data for GHG reporting will have impacts on compliance, operations, external reporting (both financial, and nonfinancial, as in company Sustainability reports), and company strategy. These are all categories included by the Committee of Sponsoring Organizations in their Enterprise Risk Management framework (see www.coso.org). [Independent] monitoring is an essential component of Enterprise Risk Management. This is another precedent that all but demands that EPA include independent monitoring in its rulemaking.

Response: While we acknowledge that other programs may benefit from third party verification, we have concluded that self-certification with EPA verification is appropriate for this rule. For additional information, see the response to the comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5.

Commenter Name: David Thornton
Commenter Affiliation: National Association of Clean Air Agencies (NACAA)
Document Control Number: EPA-HQ-OAR-2008-0508-0563
Comment Excerpt Number: 4

Comment: We are concerned that EPA's mandatory GHG reporting rule does not insure a sufficiently high level of data quality and consistency. The agency has proposed to model mandatory reporting of GHGs on its Acid Rain program, which relies on self-certification by reporting facilities, and EPA-performed data verification. Although this proposed data validation method is consistent with the agency's original, modest goal of "collect[ing] a reasonable

estimate of GHG emissions data that can be used to inform future policy decisions," it is inadequate in light of today's legislative landscape. Congress is moving rapidly to implement GHG reduction goals and requirements that will rely on a cap-and-trade system. We are doubtful that the proposed rule's level of data validation will be sufficient to support the needs of the domestic and international market-based GHG allowance and offset programs that likely will be deployed in the near future. Third-party verification provisions, like those utilized by the European Union's Emissions Trading System, the United Kingdom's GHG trading system and the California Air Resources Board, are becoming the international standard and should be added to the rule to provide the data quality, credibility and consistency that is needed for a successful cap-and-trade system whose currency is carbon emissions. Such a rigorous approach may not be necessary for all sectors, however. For example, utilities and other facilities that directly measure emissions using Continuous Emissions Monitoring would not likely need additional independent data verification. NACAA recommends that EPA examine the feasibility of a multi-tier approach to verification, with a lower level of data verification for sources directly measuring GHGs emitted into the atmosphere, and a higher level of verification for other sources.

Response: For the reasons described in the response to comment, EPA-HQ-OAR-2008-0508-0228q, excerpt 5, EPA disagrees that a two-tiered approach to verification is needed to ensure the quality of emissions data. The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Douglas P. Scott
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0567.2
Comment Excerpt Number: 3

Comment: The Registry's primary intent in providing comments on the EPA's proposed approach to verification is to ensure that the data collected by EPA is high quality, reliable, meets established standards for assuring accuracy and provides consistent data across all reporters. The Registry is concerned that the draft MRR, which proposed using self-certification with EPA review, is not sufficient to meet this standard. Given that the data collected under EPA's MRR will create a foundation for future GHG programs, The Registry urges EPA to adopt an approach which emphasizes the accuracy of GHG emissions data and will support EPA's needs now and in the long-term. Although EPA has indicated that the proposed mandatory reporting rule is not specifically intended to support a cap-and-trade program, The Registry believes it is critical for EPA to recognize that the data collected by the MRR will likely serve as the underpinning for future GHG regulatory programs and the reporting system should be designed accordingly. EPA recognizes in the MRR that third-party verification would be necessary to provide assurance in a market system. Under a cap-and-trade program, EPA will need high quality emissions data to reconcile reported emissions with allowances and to determine compliance. The Registry therefore encourages EPA to adopt an approach for verifying GHG emissions which will support future program uses, including a potential a cap-and-trade program. It is also important to note that as programs emerge which assign a financial value to GHG emissions, third-party verification can help satisfy the needs and interest of multiple stakeholders, including financial and environmental regulatory interests. The nature of GHG emissions quantification is different than that of the Acid Rain Program and other criteria air pollutants. There is greater potential for error and inconsistency and thus greater need for a robust verification process. GHG emissions are ubiquitous in nature and therefore are unlike traditional criteria air pollutants. While EPA is proposing that some GHG data will be captured

directly at the “stack,” other GHG emissions are obtained from fuel use and from other data that is not directly measured. Some of the methods proposed by EPA for calculating GHG emissions are complex and potentially subject to reporting errors. Experience with both voluntary and mandatory GHG reporting programs shows that errors are common in the development of GHG inventories and that third-party verification can cost-effectively ensure accurate and consistent data that is compliant with established protocols and methodologies. The California Climate Action Registry (CCAR) is a voluntary GHG registry that was formed in 2001 and served as the basis for the development of The Climate Registry’s program in 2007. Even though the members of CCAR’s voluntary program made honest efforts to submit accurate emissions reports, third-party verification has identified misstatements in 99 percent of the nearly 600 verifications performed for the CCAR program. Nationally and internationally, third-party verification is a critical component of GHG reporting programs. The United Nations Framework Convention on Climate Change (UNFCCC) Clean Development Mechanism (CDM), The European Union’s Emissions Trading System (EU ETS), the United Kingdom’s GHG Emissions Trading System, Alberta’s Specified Gas Emitters Program and the California Air Resources Board (AB 32) all utilize third-party verification to ensure data accuracy in their programs. In response to the needs of GHG reporting programs that evolved over the past decade, the International Organization for Standardization (ISO), a network of the national standards institutes of 161 countries, developed the following international standards pertaining to GHG reporting and verification. 1. ISO 14064-1:2006, Greenhouse gases — Part 1: Specification with guidance at the organization level for quantification and reporting of greenhouse gas emissions and removals 2. ISO 14064-2:2006, Greenhouse gases — Part 2: Specification with guidance at the project level for quantification, monitoring and reporting of greenhouse gas emission reductions or removal enhancements 3. ISO 14064-3:2006, Greenhouse gases — Part 3: Specification with guidance for the validation and verification of greenhouse gas assertions 4. ISO 14065-2007, Greenhouse gas - Requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition Supplementing the ISO standard on requirements for GHG Verification Bodies is the IAF Mandatory Document for the Application of ISO 14065:2007. ISO is also in the process of developing ISO 14066, Greenhouse gases — Competence requirements for greenhouse gas validation and verification teams with guidance for evaluation. The ISO 14064 and ISO 14065 standards are flexible, regime-neutral tools that promote best practice, support the integrity of GHG assertions, and support the development of GHG programs and markets. Third-party verification assesses whether an entity’s emissions inventory complies with the reporting principles of relevance, completeness, consistency, transparency, and accuracy, as well as the GHG program’s reporting criteria (e.g., materiality threshold, geographic requirements, etc.). Verification activities apply not only to the calculation of GHG emissions, but also to the context and meaning of the reported data. In addition to assessing the aforementioned GHG reporting principles, ISO requires Verification Bodies to adhere to the verification principles, defined in ISO 14064-3, of independence, ethical conduct, fair presentation, and due professional care. ISO 14064-3 directs Verification Bodies to focus their verification activities on those data systems, processes, emissions sources, and calculations that pose the greatest risk of generating a material discrepancy in an effort to locate reporting errors. ISO 14065 is the standard against which Accreditation Bodies assess Verification Bodies to ensure that they have the skills and competencies to perform verification activities. As part of the accreditation process, the Accreditation Body assesses a Verification Body’s internal systems, processes, quality controls, impartiality and independence to successfully complete emissions verifications. ISO 14065 details a series of requirements that Verification Bodies must meet to become accredited to the standard. The standard includes requirements for demonstrating impartiality, competency, deployment and management of personnel, communications and records retention, verification processes, appeals and complaint processes, and management

system requirements. The Registry strongly encourages EPA to adopt verification policies and programs that are consistent with the ISO's internationally-accepted standards. This is essential to ensuring high-quality meaningful GHG data and consistency in GHG emissions data across jurisdictions and national borders. We also encourage EPA to recognize the significant investments made to date by companies and other organizations and institutions to comply with these standards.

Response: For the reasons described in the response to comment, EPA-HQ-OAR-2008-0508-0228q, excerpt 5, EPA disagrees that third party verification is needed to ensure the quality of emissions data. The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Michael Carlson
Commenter Affiliation: MEC Environmental Consulting
Document Control Number: EPA-HQ-OAR-2008-0508-0615
Comment Excerpt Number: 13

Comment: The redundant data verification process proposed by the agency (16477) places an unnecessary administrative burden on EPA and is a waste of agency resources. Facility verification of the data through a self-certification process, as is done with other regulatory reports, e.g., data submittals under Title 5 of the Clean Air Act Amendments, should be more than sufficient. Verification by the EPA is redundant and unnecessary. As the agency correctly points out it has authority under Sections 114 and 208 of the Clean Air Act to independently conduct site visits, review records, and verify compliance (16476). This statutory authority for oversight, however, is no justification for incorporating into the proposed rule a process wherein all GHG data submitted is verified by the EPA. We urge the agency to adopt Option 1.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Brian Schweitzer
Commenter Affiliation: Governor, State of Montana
Document Control Number: EPA-HQ-OAR-2008-0508-0541.1
Comment Excerpt Number: 1

Comment: If a cap and trade system is set up, it must be workable. To be workable, the allowances created by the system must be accepted by both the national market and by overseas markets with which we wish to trade. The quantification and reporting of GHGs is a highly complex endeavor, as demonstrated by the length and breadth of your proposal. Because these measurements will support what are essentially financial instruments, certifying that they are accurate is as much a matter of financial accounting as emissions inventory work. The market is likely to demand accredited and independent third-party verification, and indeed, third party verification is the emerging international standard for GHG reporting. EPA should address how the US can meet that standard.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5.

Commenter Name: Caroline Choi
Commenter Affiliation: Progress Energy
Document Control Number: EPA-HQ-OAR-2008-0508-0439.1
Comment Excerpt Number: 12

Comment: Progress Energy supports the self-certification requirement. EPA and Congress have relied upon self-certification in the ARP and Title V Operating Permit programs. Under these programs, sources have established programs, including in many cases periodic self-auditing, to meet requirements for "reasonable inquiry." Progress energy believes that requiring third party verification on top of these existing requirements would be burdensome and unnecessary. The Company notes that any DR that wishes to use third party verification to further support his/her certification, e.g., as a form of self-audit, is free to do so.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Matthew Frank
Commenter Affiliation: Wisconsin Department of Natural Resources
Document Control Number: EPA-HQ-OAR-2008-0508-1062.1
Comment Excerpt Number: 31

Comment: We support the proposed use of self-certification, with verification by EPA as needed for agency assurance of accuracy of data. We recommend that the States be allowed to perform certification if they seek it and EPA Regions issue authorization. Third party verification may be impractical for landfills.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. Also see the preamble for responses on the role of States.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 32

Comment: The preamble claims that the third party verification approach entails a risk of “inconsistent verifications because verification responsibilities are spread amongst numerous verifiers.” We agree that consistent verifications are an essential aspect of a successful program, but we disagree that adoption of the current EPA verification approach eliminates the risk of inconsistent verifications. Regardless of which verification approach is adopted, EPA will have to develop and implement verification protocols and a verification audit program to ensure consistent and effective verifications. As acknowledged in the preamble, EPA will need to affirmatively act to ensure consistency of reports if it uses its own contractors (as it inevitably will) to support its verification activities. EPA’s Review of Verification Systems claims that under the third party verification approach, “errors that could be uncovered from big-picture comparisons could be missed” and that cross-sectoral and cross-facility comparisons would not be possible. This conclusion is unjustified. Reliance on third-party verification would not necessarily restrict EPA’s ability to conduct analyses of reported data (or facility site visits

independent of third party audits) to evaluate trends and issues not addressed by facility-specific verifications. Instead, we believe that EPA can and will need to conduct big-picture analyses of reported data under whichever verification approach is adopted.

Response: Reporting programs with third party verification generally require facilities to report only facility emissions and not the facility level activity data necessary to conduct industry and facility comparisons. Requiring both third party verification and detailed activity data reporting would place additional burden on reporters that is unwarranted given our previous successes with self-certification combined with EPA verification in the ARP. Therefore, the final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 9
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-1021.1
Comment Excerpt Number: 13

Comment: As a general matter, mandatory third-party verification, whether for GHG emissions reporting or offsets for GHG emissions, is neither appropriate nor necessary. As explained in the preamble, with such verification owners and operators of "facilities" subject to Subparts C or D "would be required to hire independent third-party verifiers." Further, "EPA would have to establish a system" and "develop protocols" in order to "certify such verifiers so there would be some semblance of consistency and quality" of the selected verifiers. See id. The preamble even indicates that EPA would have to "accredit" them and "conduct ongoing oversight and auditing of the verifications" to ensure that they continue to conduct their responsibilities "in a consistent and high quality manner." The preamble notes that all of these requirements would place "additional costs" on reporting facilities, not to mention the substantial addition of resources at EPA at a time of increased government deficits. In adopting a voluntary rule for the reporting of GHG emissions and reductions in 2006, DOE stated in the preamble to that rule that it had received comments on whether to require third-party verification. As a result, DOE provided that reporting entities are "encouraged" to have reports "reviewed" by "independent and qualified" auditors (see 10 C.F.R. § 300.11(a)), while at the same time rejecting the idea of a mandate requiring such verification, saying that "DOE recognizes the value of independent verification but remains sensitive to the cost and burden in may impose on prospective program participants." 71 Fed. Reg. 20784, 20802 (2006). Beyond concerns about regulatory complexity and cost, requiring third-party verification would fail to recognize the high caliber of the GHG emissions data that has been reported to EPA under the ARP. A February 10, 2009, memorandum in this docket entitled "Review of Verification Systems in Environmental Reporting Programs," from an EPA contractor (ERG) to EPA explains that "[t]o determine CO_2 emissions, the Part 75 rule specifies the use of continuous monitoring systems (CEMs) or the use of fuel sampling and fuel feed rate data." As to verification, the memorandum notes the various data collection requirements and procedures under the ARP program, and states (at p. 12): The acid rain program has been recognized for the completeness and high quality of data reported to the program. The program does not require third party verification of the data. Instead, facilities must sign the reports to self-certify that the reported data is accurate, and EPA relies on systems that encourage proper data collection and reporting, as well as extensive EPA verification of reported data. Further, in the preamble, EPA refers to CEMs data as "quality data." In addition, in public presentations EPA has also often referred to CEMs as the "gold standard" in emissions monitoring due to the consistency and accuracy of the data provided by these systems. In the

ARP and Nitrogen Oxides (NOx) Budget Trading Program, CEMs are the standard by which emissions are measured to back-up the highly successful sulfur dioxide (SO2) and NOx emissions trading programs. This data, which includes reported CO_2 emissions, has been self-certified since the start of the ARP. It should also be emphasized that the ARP regulations (found at 40 C.F.R. Part 75) that govern the operation of CEMs are among the most explicit regulations in existence today for emissions monitoring. These regulations cover a host of criteria, including requirements for daily instrument calibrations, test methodologies, record-keeping requirements, relative accuracy test audits and missing data algorithms for periods when the monitors may be out of service. In the ARP, EPA has designed and implemented one of the most cost-effective programs for self-certification of emissions data – a program that is based on explicit and stringent technical requirements, and backed by the full authority of the CAA for civil and criminal penalties. This model has worked for more than 15 years and can work for the collection and submission of GHG emissions data, as EPA has proposed in this current rulemaking. Therefore, third-party verification should not be required, but reporting entities should have the option to use third-party verifiers if they so choose.

Response: The final rule retains self-certification with EPA verification. The rule allows facilities to use outside contractors with knowledge and experience in GHG reporting and verification to assist with the monitoring and reporting requirements of the rule. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 30

Comment: One of the rationales EPA offers for the proposed approach to verification is consistency with other Agency reporting programs including the Toxic Release Inventory ('TRI') and Clean Air Act Acid Rain Program. We disagree that either of these programs provides an appropriate model for the GHG mandatory reporting program on the verification issue. Unlike the GHG mandatory reporting program, the Acid Rain Program covers a relatively homogenous set of facilities and sources, i.e. fossil fuel fired electric generating units larger than 25 MW. Further, the Acid Rain Program requires the use of continuous emissions monitoring systems for essentially all major covered sources. Self-certification with EPA verification can be effective for the Acid Rain Program because of the relatively narrow range of types of facilities and sources and the high confidence level in data from continuous emissions monitoring systems. In contrast, the GHG mandatory reporting rule covers a far wider range of facilities, sources, and data sources. Like the GHG reporting rule, the TRI program covers a wide range of sources and facilities. However, the TRI program is substantially different from the GHG reporting rule in that it is not intended to support the implementation of a regulatory program to cap and reduce emissions. The TRI program does not require the use of specific estimation methods and the and the reported data is generally considered to have a much lower level of confidence than the Acid Rain Program The GHG mandatory reporting program is unlike either the Acid Rain Program or the TRI program, as far as verification needs are concerned. The GHG mandatory reporting program covers a diverse range of sources, like the TRI program, but it must achieve a level of confidence in the reported data similar to the Acid Rain Program. This combination requires a verification program that can provide a high level of confidence in reported data from a wide range of sources. We believe that the third party verification approach, or an EPA approach with similar features, is best able to achieve this goal.

Response: The final rule retains self-certification with EPA verification. We acknowledge that different programs have different needs and have determined a verification approach that is best suited to this reporting rule. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 3
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0433.2
Comment Excerpt Number: 30

Comment: In the preamble (Page 16476), the proposal solicits comments on options regarding data verification through a certification process. NPRA supports option 1 ("self-certification without independent verification") and opposes options 2 and 3. We agree with EPA that a self-certified facility is sufficient without any third party verification for the stated purposes of this reporting rule. Option 1 would best fit both industry's and EPA's needs because this option would forgo the immense effort that would be required to verify all of the extremely detailed information that would be submitted to the EPA if option 2 or 3 were selected, therefore lowering the burden for both industry and EPA. In addition, if third party verification were required, EPA would still have to put together verification requirements, and would have to review, audit, and conduct oversight analysis to ensure the verifications are done correctly. This presents a huge burden to the EPA. By requiring third party verification, or requiring EPA to act as verifier for all reports, there is a likelihood that the length of time for verification could result in long delays in making the data publically available. As EPA suggests, with the current language in the reporting rule, there may be over 13,000 facilities that would be required to report. This would lead to an immense data overload to the EPA if all of the monitoring data, activity data, etc. had to be independently verified. This is not to imply that these records should not be kept. They should remain with the reporting facility, and if the need were to arise where EPA would inquire to see the records for a compliance inspection, these records can then be produced. The designated representative at the facility would still certify the truthfulness and accuracy of the information. This is very similar to the process under the Toxic Release Inventory (TRI). In this reporting rule, the format requires submission of the releases without additionally submitting detailed information on how the estimates were derived. With the TRI program there is no third party verification. If EPA would like more information, they can request it directly from the facility in question. This is a huge burden relief for both parties, while still maintaining the integrity of the emission estimates through EPA inspections or audits. It is important to remember that this is a reporting rule requiring only the submission of GHG data to provide support for future legislative or regulatory developments. As long as this remains a reporting rule and not a registry or other program, NPRA opposes the requirement of verification by a third party.

Response: The final rule retains self-certification with EPA verification. To enable effective review of a large volume of data reported, facilities will submit data electronically in a standard format through a centralized system. Data needed for emissions verification must be reported. See the preamble for the full response on the emissions verification approach. The preamble also contains responses on the general content of annual reports and on recordkeeping requirements.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 34

Comment: In the preamble, the Agency suggests that third-party verification would result in delays in data availability and that EPA verification would "... better ensure the timely reporting and use of the reported data." We disagree and instead believe that the third party verification approach could result in data availability on the same timeline as the EPA verification approach. If EPA adopts a third party approach, it can ensure that third party verified data is swiftly available by requiring all data to be submitted to EPA at the same time that it is given to the third party verifier. This requirement will provide EPA access to the unverified emission report data on the same schedule as under the EPA verification approach. In either case, unverified emission reports will be provided to EPA early in the reporting cycle. Emission reports will, of course, need to be verified under either the third-party or EPA verification approach, and final regulatory action will need to be based on verified emissions reports. As described in the Review of Verification Systems, third party verification generally takes from 3 to 6 months. If the EPA adopts third party verification, we think that four months, as provided by GARB, is a reasonable requirement. An EPA verification process that provided an adequate level of assurance that emission reports are complete and accurate would certainly take more time that the virtually instantaneous verification process that is currently proposed. It is unclear if there would be any time savings from a comprehensive EPA verification process, but we believe that any additional time required for such rigorous verification is likely to be justified considering the benefits.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0228g, excerpt 1.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 31

Comment: The Agency's proposed approach to verification is not consistent with the leading state, regional and international programs. Third party verification has been adopted by CARB, WCI, and the EU ETS for their mandatory reporting programs. Third party reporting has also been adopted for The Climate Registry voluntary reporting program and for the Climate Action Reserve emission reduction registry. The RGGI program uses EPA verification, but it only covers sources reporting under 40 CFR Part 75, like the Acid Rain Program. As discussed above, this approach is not a good model for the much wider range of sources covered by the proposed GHG reporting rule. The adoption of the third party verification approach by the EU, CARB, WCI, and the 57 states and provinces participating in The Climate Registry voluntary reporting program was based on extensive consideration of a range of alternative approaches, including agency verification. [footnote: See http://www.theclimateregistry.org/] This common decision, taken by this diverse range of entities, provides strong support for a third party approach, or, at a minimum, a similar EPA-based method. We believe that consistency among EPA and states, provinces and the EU is an important goal that could be achieved through adoption of third party verification or a similar approach by EPA. In contrast, adoption of the proposed approach would put EPA's program at odds with other programs, resulting in inconsistent emission reports and the likely need to modify existing programs.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5.

Commenter Name: Lane Hallenbeck
Commenter Affiliation: American National Standards Institute (ANSI)
Document Control Number: EPA-HQ-OAR-2008-0508-0411.1
Comment Excerpt Number: 2

Comment: There are certain shortcomings in allowing facilities to "self certify" (self declare) their emissions. Reporting errors are common and without third party verification the quality of the reported data will be at risk. The use of third party verification in the EPA's Mandatory GHG Reporting Rule would increase the credibility of the GHG emissions statements produced by this proposed rule. "Self-certification" with third party verification would be consistent with the major state mandatory and voluntary reporting programs as well as international programs. California Air Resources Board (CARB), Climate Action Reserve (CAR), The Climate Registry (TCR) and the EU-Emissions Trading System (EU-ETS) all require third party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Marcelle Shoop
Commenter Affiliation: Rio Tinto Services, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0636.1
Comment Excerpt Number: 35

Comment: Third party verification is costly and might not be necessary or justified for all reporting categories, particularly where the reporting entit (e.g., coal supplier) and associated emissions might not be subject to a compliance obligation in a climate program. Given the link between a GHG emissions reporting program and a cap and trade program, confidence in the reported emissions data is important for functional, non-volatile markets. EPA should continue to assess whether verification or other quality assurance mechanisms might be required for some emissions reporting. To the extent that some sources or reporters also may have mandatory reporting obligations under other programs (e.g., CARB, TCR, or WCI) that might require third party verification, EPA should develop guidance that allows the Agency to rely on third party verification or at least apply a modified approach to its review of third party verified reports.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Barry R. Wallerstein
Commenter Affiliation: South Coast Air Quality Management District (SCAQMD)
Document Control Number: EPA-HQ-OAR-2008-0508-1147.1
Comment Excerpt Number: 1

Comment: The current proposed rule will require the EPA to undertake verification of an estimated 13,000 reporting entities. Verifying emissions data from this many facilities solely by the EPA will not provide a detailed oversight of the reported emissions. The EPA should consider training and certifying local air pollution district staff to conduct greenhouse gas

emission verifications for this program. SCAQMD has over 750 employees, including over 140 engineers and 120 inspectors that issue permits, conduct inspections, audit emission reports, handle complaints, and identify violations. Twenty of our most experienced auditors, permit engineers and inspectors will be trained to be verifiers or lead verifiers for California's mandatory greenhouse gas reporting requirements. This staff has in-depth knowledge and understanding of the facilities, their emission sources and historic emissions. This expertise could be very beneficial to apply to federal greenhouse gas emission reports.

Response: EPA intends to work with States and others to support harmonization across programs to the extent possible. See the preamble for discussion of the role of States and the relationship of this rule to State programs. As discussed in the preamble, this reporting rule does not preempt or replace State rules, and EPA affirms that States can collect additional data under State rules and programs.

Commenter Name: Laurence K. Lau
Commenter Affiliation: Hawaii Department of Health
Document Control Number: EPA-HQ-OAR-2008-0508-0329.1
Comment Excerpt Number: 7

Comment: Verification is a very important issue and the Task Force stresses these principles for accommodating GHG control programs: a.Assure verification to reasonable level. b.Use/allow most cost effective option. c.Use existing international standards (ISO) & accreditation (ANSI) features.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Janice Adair
Commenter Affiliation: Western Climate Initiative (WCI)
Document Control Number: EPA-HQ-OAR-2008-0508-0443.1
Comment Excerpt Number: 1

Comment: WCI recommends that U.S. EPA include a third-party verification element, consistent with international standards, in the mandatory reporting rule. In recommending reporter self-certification followed by EPA review, U.S. EPA cites concerns about cost and stakeholder opposition, along with the Agency's demonstrated success in handling verification of emissions reports under the Acid Rain program. WCI examined the costs of a third-party program that would be incurred by companies required to report before deciding to include it in our Essential Requirements. [See DCN:EPA-HQ-OAR-2008-0508-0443.1 for copy of white paper, Overview of Quality Assurance Options and Applications.] We concluded that with actions to ensure the availability and proper training of an adequate number of verifiers, there is no reason costs should exceed their historical average, generally well under ten cents per metric ton CO_2-equivalent (CO2e) emissions. Given the value and credibility that would be added to emissions reports under a third-party verification element crafted to International Organization for Standardization (ISO) standards – and particularly in light of the Administration's stated desire to move toward a program where GHG emissions will be traded (at costs likely to exceed ten dollars per ton CO2e) – this cost should not be a barrier. Several members of The Climate Registry and the California Climate Action Registry (CCAR), representing companies who would be required to report under this proposal, testified at U.S. EPA's April 16, 2009 public

hearing in Sacramento about the relatively minor cost of verification and the value it provides in terms of credibility. Entities participating in these voluntary programs have experienced other benefits from third-party verification, such as identification of operational inefficiencies, improved understanding of their emissions profile, and opportunities for internal collaboration of work teams. WCI jurisdictions also appreciate what U.S. EPA has accomplished in the Acid Rain program, reducing emissions through trading while internally managing verification. But the sources in that program are far fewer in number and lack the diversity and frequent complexity of quantification methods required for the types of emissions sources that will be reporting GHGs under this broader program. We are concerned that resources sufficient to ensure that the data reported are "consistent, accurate, and complete," resources that could be supplied by accredited and independent third-party experts, will not be available to U.S. EPA. If the verification element thus falls short of ensuring high-quality data, the rule's rigorous quantification methods go for naught, and control strategies like cap-and-trade become infeasible. Moreover, we recognize that third party verification is the emerging international standard for GHG reporting. Without high-quality data that third party verification helps to ensure, we risk the prospect of not achieving the ability to trade allowances for their full value in the international trading market. Full and fair valuation of North American allowances in the international trading market is what we seek to achieve. The recent history of GHG reporting in North America underscores the need for a third-party approach to verification. In California's voluntary reporting program, reporters who wanted to submit accurate reports often found it challenging to do so. In fact it was three years before a report was submitted for which no problems were found by third-party verifiers. Similarly, the Province of Alberta recently implemented third-party verification for reporting under its large industrial emitter greenhouse gas program, and found that all previously submitted, non-third party verified emissions data reports contained errors. Accounting for the GHG emissions that pervade the economy is more similar to financial accounting than the emissions inventory work with which air agencies are familiar. Particularly when carbon emissions take on a monetary value, verification needs to include on-site review of sources and data management systems, development of a sampling plan that considers the relative significance of sources and emissions uncertainty, and thorough review of each report for material misstatement. The WCI believes that third-party verification involving mandatory facility visits and high-quality, focused data review would best support a market-based program, be consistent with international standards, and be administratively efficient. An additional consideration for U.S. EPA is the cost of a much larger in-house audit program, including management of the voluminous supporting data that the proposal would require over 13,000 facilities to provide. The supporting data will include the confidential business information that is often used to develop emissions reports, requiring the Agency to devote additional resources to proper handling of public records requests. Under a third-party approach, business-sensitive data would be reviewed by accredited verifiers and requested only as needed by U.S. EPA and state agencies. This would significantly reduce data acquisition and management costs. While we acknowledge that managing a third-party verification program also requires resources, the American National Standards Institute (ANSI) has demonstrated willingness and capacity to provide management support through its accreditation program for verification bodies. As U.S. EPA works with states to quantify and control GHG emissions, and considers the objective of eventual linkage with international emissions trading programs, we urge the Agency to acknowledge the unusual circumstance of GHG accounting and bring all available expertise to bear on ensuring data of the highest quality. Third-party verification can help us all to accomplish that.

Response: The final rule retains self-certification with EPA verification. See Section II.N. in the preamble for more information on why we selected this approach, how we plan to verify the data

and how we will collect the data necessary for verification. For EPA's review of other programs, see the docket for the memorandum titled "Review of Verification Systems in Environmental Reporting Programs" (EPA-HQ-OAR-2008-0508-0047). For more information about the EPA's assessment of the costs of verification please see section 5.1.6. of the Regulatory Impact Analysis. For information on how EPA plans to handle CBI, see Section II.R of the preamble.

Commenter Name: William Koetzle
Commenter Affiliation: Chevron Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0352.1
Comment Excerpt Number: 2

Comment: Chevron believes that EPA's mandatory GHG reporting rule should follow the example set by nearly every other international, regional, and state GHG reporting program and require that submitted GHG emission reports be subject to mandatory third-party verification. EPA considered three verification options: "(l) self-certification without independent verification, (2) self-certification with third-party verification, and (3) self-certification with EPA verification." The agency selected option 3, self-certification with EPA verification. EPA's rationale for this option is: this approach is consistent with many EPA regulatory programs, would presumably lower cost to reporting entities, not require a program to train and certify third party verifiers, and result in consistent verification. In Chevron's view, EPA's assessment fails to appropriately account for several important factors. First, the scope and volume of data required by the proposed GHG reporting program is larger and more complex than other EPA programs. Secondly, EPA's proposed approach is inconsistent with most existing international, regional, and state GHG reporting programs. Finally, third-party verification is the most efficient and cost-effective alternative. GHG Emissions Regulation Is Not Comparable to Other EPA Air Programs As noted above, one of EPA's justifications for selecting the EPA verification option is that an EPA verification approach is consistent with other EPA emissions reporting programs including EPA's ARP [Acid Rain Program]." Chevron agrees with EPA that existing federal air quality emissions regulatory and reporting programs generally do not require third-party verification of submitted emissions data. However, EPA fails to provide adequate explanation that other air quality programs are sufficiently comparable in scope and volume to climate change programs to justify these emissions reporting approaches as a model or precedent for GHG emissions reporting. The approach to emissions reporting verification in existing air quality programs for criteria and hazardous air pollutants does not, in fact, provide a good precedent for GHG emissions reporting. The existing air quality programs are intended to improve air quality in relatively small local or regional areas, rather than attempting to address a global problem. Additionally, existing programs generally apply to a relatively small number of sources, not the multitude of sources that would be covered by the proposed GHG reporting program. Even EPA's Acid Rain Program is principally focused on electric generating units in one region of the U.S. and not on all emissions sources in the country. With the notable exception of the Acid Rain Program allowance trading system, the implementation and enforcement of most of these programs are delegated or assigned to states or local governmental entities. These state and local agencies are very familiar with the facilities in their areas, which makes their emissions verification tasks easier. In contrast, EPA does not have the same level of experience with particular facilities, and has not administered a reporting program that will affect every substantial combustion source and many other source types across the entire country. The emissions reporting requirements that accompany existing air quality regulatory programs also are not as comprehensive and rigorous as the proposed GHG reporting program. Existing programs and their reporting requirements focus on emissions of a small number of pollutants,

often from specified source types or process equipment (as in the NSPS program) and do not require emissions reporting for entire facilities. In contrast, EPA's proposed mandatory reporting rule for GHG emissions applies to all significant GHG emissions sources in the U.S. As proposed, the rule would require that facility operators submit massive amounts of operating data to support their emission calculations, which are intended to identify GHG emissions across entire facilities rather than just specified process units. The number of facilities subject to the reporting requirement and the amount of information to be submitted has no precedent in other emissions reporting programs.

Response: The final rule retains self-certification with EPA verification. For the response to the comment on the compatibility of EPA's verification approach with other reporting programs, see the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5. Although we agree that the scope and number of affected facilities for this program varies from other programs, such as the ARP, we disagree with the commenter that the number and variety of facilities makes self-certification with EPA verification impractical. For information on how facilities will report the data required under this rule, see Section V.A. of the preamble. For additional information on EPA's approach to verification, see Section II.N of the preamble.

We do not plan to delegate implementation of this rule to States. For additional information, see the preamble for the response on the role of states in compliance and enforcement. EPA intends to work with States and others to support harmonization across programs to the extent possible. See the preamble for discussion of the role of States and the relationship of this rule to State programs.

Commenter Name: Jay Wintergreen
Commenter Affiliation: First Environment
Document Control Number: EPA-HQ-OAR-2008-0508-0228g
Comment Excerpt Number: 5

Comment: GHG verification by a regulatory agency always introduces the risk of such government auditors identifying violations of regulations beyond the scope of GHG emissions. Such discoveries can occur not only from evidence submitted in support of the GHG report, but also in site visits initiated as part of the verification process. Third party verification was initially proposed by industry in Europe to limit the involvement of the regulatory agencies in the preliminary data assurance process for this very reason. In consideration of these points, I hope that reporters will recognize the value that third party verification delivers to the mandatory reporting process and provide comments accordingly.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. For additional discussion of compliance and enforcement, including discussion of EPA's approach to enforcement and a list of deviations that are considered violations of the rule, see the preamble and separate comment response document volume for the response on rule implementation and enforcement.

Commenter Name: Mary Uhl
Commenter Affiliation: New Mexico Environment Department
Document Control Number: EPA-HQ-OAR-2008-0508-0450.1
Comment Excerpt Number: 1

Comment: New Mexico recommends that U.S. EPA include a third-party verification element , consistent with international standards, in the mandatory reporting rule. Like President Obama, Governor Richardson supports development of a cap-and-trade program to cut greenhouse gas emissions. As carbon emissions take on monetary value, the reporting program that undergirds cap-and-trade must be unassailable. The recent history of GHG reporting in North America underscores the need for a third-party approach to verification. In California's voluntary reporting program, reporters who wanted to submit accurate reports often found it challenging to do so. In fact it was three years before a report was submitted for which no problems were found by third-party verifiers. Similarly, the Province of Alberta recently implemented third-party verification for reporting under its large industrial emitter greenhouse gas program, and found that all previously submitted, non-third party verified emissions data reports contained errors. Moreover, we recognize that third party verification is the emerging international standard for GHG reporting. Without high-quality data that third party verification helps to ensure, we risk the prospect of not achieving the ability to trade allowances for their full value in the international trading market. Full and fair valuation of North American allowances in the international trading market is what we seek to achieve.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Arthur N. Marin
Commenter Affiliation: Northeast States for Coordinated Air Use Management (NESCAUM)
Document Control Number: EPA-HQ-OAR-2008-0508-0556.1
Comment Excerpt Number: 5

Comment: EPA should develop a GHG reporting program that hast the following attributes: Robust verification standards: Any federal reporting program must ensure that its data are of the highest quality and have been appropriately quality assured and controlled. EPA should require data verification standards that are consistent with the ISO methodology adopted by The Climate Registry and recommended by the Intergovernmental Panel on Climate Change. Again, there are substantial differences between the quality and credibility of criteria pollutant reporting and that for GHG emissions. While self-certification of emissions is appropriate and generally effective for electricity generation units and other large stationary sources that use continuous emissions monitoring, deriving emissions of carbon dioxide and other GHGs for smaller sources will require a higher level of verification than under the Acid Rain program. As such, NESCAUM recommends that EPA consider the possible benefits of a two-tiered approach to verification, and verification by third parties.

Response: For the reasons described in the response to comment, EPA-HQ-OAR-2008-0508-0228q, excerpt 5, EPA disagrees that a two-tiered approach to verification is needed to ensure the quality of emissions data. For additional information on EPA's approach to verification, see Section II.N of the preamble.

Commenter Name: Karyn Andersen
Commenter Affiliation: RR Donnelley
Document Control Number: EPA-HQ-OAR-2008-0508-0345.1
Comment Excerpt Number: 7

Comment: Will a formal audit process be developed for the information provided?

Response: EPA's verification program will include an automated QA/QC system with additional onsite audits. For more information on EPA's verification system, see Section II.N of the preamble for additional information on our approach to emissions verification.

Commenter Name: Hiram Perez
Commenter Affiliation: CAM Environmental Services
Document Control Number: EPA-HQ-OAR-2008-0508-0326
Comment Excerpt Number: 1

Comment: We believe that the only way to create creditable data on which national policy can be based is to have emissions data verified by 3rd party verifiers. However, the resulting cost of verification is an obvious concern. It should be noted that the cost charged for verification is directly related to the cost involved in becoming certified as a verifier. It appears from the limited research that I've done that most agencies are migrating towards the ANSI standard for verifier certification. However, this is a lengthy, cumbersome, and very expensive certification process that requires a level of expertise way above what is actually required for this program. The cost of ANSI certification is obviously included as part of the verification cost to industry. It's is our suggestion: 1. That 3rd party verification be used to verify the data submitted to this program in order to produce consistent and reliable data on which policy decisions can be made; and, 2. That the EPA develop a 3rd party certification program similar to the Asbestos Program in order satisfy the specific reporting requirements of this particular program while providing a lower-cost (relative to ANSI) way to achieve certification. This would increase the supply of verifying firms, increase competition, and lower the cost of verification to industry while still assuring data integrity.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Sonal Mahida
Commenter Affiliation: Carbon Disclosure Project
Document Control Number: EPA-HQ-OAR-2008-0508-0306.1
Comment Excerpt Number: 7

Comment: CDP is not fully convinced Option 2 is the right choice. While there are obvious flaws in relying on self-certification without independent verification (Option 1), it is not obvious that there are strong reasons for rejecting self-certification with third-party verification (Option 2). CDP sees advantages in this option. 1. Third party verification was the chosen option for the European Union Emissions Trading Scheme, the world's largest mandatory emissions reporting scheme, and has functioned well for that purpose. Crucially, this third-party verification provided all stakeholders with trust in the numbers during the initial phase of a trading mechanism whose introduction and implementation was hotly debated and contested. While issues such as allocation were fiercely fought over, the quality of the emissions verification data was generally considered to be non-political. 2. While a requirement for third party verification would place slightly higher costs on reporting US companies it would also create a large number of jobs in the private sector, and would create skills and capacity in low-

carbon skills just at the time when they are most needed in the economy. If EPA does decide to go down the route of self-certification with EPA verification, CDP would ask EPA to consider whether a licensing system can be created by EPA under which approved third-party organizations could, on EPA's behalf, review the emissions report and the underlying monitoring system records, activity data collection, calculation procedures, and documentation, and submit a verification statement that the reported emissions are accurate and free of material misstatement. The third parties eligible for licenses to verify would include other mandatory and voluntary reporting processes such as CDP, TCR etc. A potential advantage would be the streamlining of corporate reporting requests and requirements.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Diane Wittenberg
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0228s
Comment Excerpt Number: 11

Comment: We further encourage EPA to consider additional potential options for utilizing third party verifiers beyond what you thought about in the draft proposal. As you point out in the draft proposal, there is a cost of third party verification. However, there is also a significant cost and level of effort for EPA to independently implement a high quality verification program. We encourage EPA to consider utilizing international standards for third party verification and accreditation, the ISO standards, and to use partners such as the American national Standards Institute. EPA recently used ANSI accreditation services to implement certification requirements for its WaterSense Program and you might wish to use such a model for GHG verification as well.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Diane Wittenberg
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0228s
Comment Excerpt Number: 10

Comment: One of the most important aspects of The Registry's voluntary reporting program is the requirement of third party verification. The EU ETS, California Air Resources Board also utilizes third party verification to ensure data accuracy. Our primary focus with regard to verification is ensuring that the data collected by EPA is high quality, accurate and reliable and that EPA's verification process meets established standards for assuring accuracy. GHG emissions are ubiquitous and, therefore, unlike traditional air quality pollutants. While EPA is proposing that some GHG data will be captured directly at the stack, other emissions are obtained from fuel use and other data that is not directly measured. Some of the methods proposed by EPA for calculating GHG emissions are complex and potentially subject to reporting errors. Our experience with voluntary reporting is that errors are common in the development of GHG inventories, and that third party verification can cost-effectively ensure accurate and consistent data that is compliant with the established protocols and methodologies.

So we urge EPA to adopt an approach which emphasizes the accuracy of emissions data and to conduct a more comprehensive and detailed analysis of the cost of third party verification versus the option of self-certification or EPA performed verification.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5.

Commenter Name: Mark Nordheim
Commenter Affiliation: Western States Petroleum Association
Document Control Number: EPA-HQ-OAR-2008-0508-0228k
Comment Excerpt Number: 7

Comment: Third party verification is a fairly confrontational issue in a lot of circles. I'll read WSPA's official position on the subject. When there are market-based implications to the accuracy of emissions data, it's important to include third party auditing in the mandatory reporting program. It may not be necessary in the early reporting years until those programs are in place.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Bernard T. Delaney
Commenter Affiliation: Association of Accredited Verification Bodies (AAVB)
Document Control Number: EPA-HQ-OAR-2008-0508-0531.1
Comment Excerpt Number: 1

Comment: In the proposed Rule’s preamble, EPA states that it selected EPA verification over third-party verification because EPA verification is consistent with other EPA programs. We assert that GHG reporting is significantly different from reporting under the other EPA programs discussed in the rule’s supporting material.1 Differences between this proposed rule and existing EPA rules, such as the Acid Rain Program and Toxic Release Inventory (TRI), include differences in the types and number of emissions sources, the diversity of monitoring approaches and associated data and records, the complexity of emissions quantification methodologies, the sectors covered by the program, and the overall number of reporting entities. Because of these differences, we purport that instead of seeking consistency with other fundamentally different EPA programs, the verification approach should be comparable with other best practice GHG reporting programs. Accredited third-party verification has been important in relation to both emission offsets, such as CDM and JI projects and California Climate Action Registry (CCAR) projects, and organizational GHG emissions reporting in programs such as the EU ETS, Japan Voluntary ETS (JVETS), UK ETS, TCR, and Western Climate Initiative (WCI)

Response: see the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5.

Commenter Name: William Koetzle
Commenter Affiliation: Chevron Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0352.1
Comment Excerpt Number: 8

Comment: Finally, EPA states that reporters will avoid the cost of hiring third-party verifiers if EPA is the verifier. Verification costs will still exist and under EPA's approach will be borne by the federal government. If EPA decides to delegate the emissions reporting program to state and local agencies, as has been suggested by some commenters, we expect that those agencies would impose fees to cover their costs of verification. In California the Air Resources Board has proposed AB 32 Cost of Implementation Fee Regulation, and the Bay Area Air Quality Management District adopted a GHG emission fee to offset the costs to verify reporting data. Imposition of state or local agency fees to recover their verification costs reduces or eliminates any cost advantage to reporters of EPA verification.

Response: The final rule retains self-certification with EPA verification. While EPA intends to work with States to determine appropriate roles in rule implementation, EPA is not delegating emissions verification and rule enforcement to States so we would not expect this rule to cause States to impose fees. See the preamble for the full response on the emissions verification approach and for responses on the role of States.

Commenter Name: Helen A. Howes
Commenter Affiliation: Exelon Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0373.1
Comment Excerpt Number: 26

Comment: We believe implementation of third party verification strategy could be done in a cost effective manner. To minimize administrative burden on EPA, verifiers could be accredited by an outside organization such as the American National Standards Institute. Alternatively, EPA could designate approved verifiers itself. To minimize burden and cost to reporters, EPA could provide clear direction for verifiers on the sources requiring verification. EPA could also implement a de minimis exemption for the verification process and a verification cycle similar to existing registry programs. Many facilities will likely have sources that fall into both the EPA verified and third party verified categories. If the percentage of total facility emissions derived from sources requiring third party verification is below a certain threshold, EPA could allow that facility to be exempt from third party verification. This would focus the third party verification efforts on only those facilities and sources that carry the greatest risk. The verification cycle would define the process over a number of years. In the first year, a complete verification of the required sources would occur and in subsequent years, the verification would look at portions of the reported data to check continued accuracy. To further minimize the burden on EPA and the reporters, EPA could include a provision whereby the verification requirement could be removed after the first cycle is completed, if EPA is comfortable with the quality of the reported data.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Thomas W. Easterly
Commenter Affiliation: Indiana Department of Environmental Management (IDEM)
Document Control Number: EPA-HQ-OAR-2008-0508-0525.1
Comment Excerpt Number: 32

Comment: Indiana prefers self certification by the facility with no verification requirement. This is the least costly and least burdensome approach to the emissions reporting rule. Requiring U.S.

EPA, or other third party verification, will lead to increased costs to affected facilities, and is unnecessary due to the many data gaps of the proposed rule. Facilities should be allowed to seek third party verification if they choose, however this should not be required.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Helen A. Howes
Commenter Affiliation: Exelon Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0373.1
Comment Excerpt Number: 25

Comment: Exelon supports EPA's desire to balance the cost of verification for reporters with the need for quality data, and recommends a risk based third party verification strategy be implemented. It is imperative that the data collected be accurate and complete across all reporting sectors in order to support future rule making, especially if the rule making includes credit for early actions, the formation of a cap and trade system or the allocation of allowances. Certain source categories included in the rule have direct emissions monitoring and are part of a current federal regulatory system that has a long history of implementation, is well understood by facilities, and is monitored by the EPA. Other source categories reflect operations that have not traditionally had to directly measure or quantify greenhouse gas emissions. These sources present a much larger risk of error in implementing the methodologies and reporting requirements in the rule. We recommend that EPA conduct a risk analysis of the source categories, identify those that present the lowest risk for error in measurement and reporting, and conduct the verification as proposed for these categories. For the other source categories, we would recommend requiring third party verification to ensure accuracy and completeness of the data. Focusing on the source categories rather than doing the risk analysis for each reporter will minimize administrative burden on EPA and verifiers, ensure consistent application to all reporters and ensure that source categories with little to no risk for error are exempt from the third party verification process regardless of their contribution to the facility's overall emissions total. EPA should also establish reporting deadlines that allow sufficient time for required third party verifications to be completed in consideration of the number of facilities or organizations requiring third party verification.

Response: The final rule retains self-certification with EPA verification. For the reasons provided please see the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5. EPA does not think it is appropriate to require third party verification from facilities that have a great likelihood of errors. EPA is planning to provide all facilities, including those with less experience in reporting, feedback through our electronic verification process in the data system that will allow them to correct errors before they submit their report. In addition, EPA has a provision in the rule that allows facilities to correct errors in their report after it is submitted. For more information about those provisions please see sections II. J and V of the preamble. For the response to the comment on the reporting deadline, see Section II.J of the preamble.

Commenter Name: Henri Pierre Salle
Commenter Affiliation: KEMA
Document Control Number: EPA-HQ-OAR-2008-0508-0212r
Comment Excerpt Number: 1

Comment: We are also a member of The Climate Registry and a reporter for The Climate Registry, and we are committed to the third-party accredited certification system for all appropriate uses, and we certainly think this particular program of verifying carbon inventories and potentially validating carbon offsets is one which lends itself well to the third-party system.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Kevin Fay
Commenter Affiliation: International Climate Change Partnership (ICCP)
Document Control Number: EPA-HQ-OAR-2008-0508-0490.1
Comment Excerpt Number: 14

Comment: The Agency indicates it has considered three verification options: none, third party, and EPA. It is not clear that EPA has the resources to independently verify the thousands of reports that are submitted, but we believe that this is a better option than third party verification. If a reporter feels the need to use third party verification, it should have the option to do so, and EPA should be able to certify those qualified third party verifiers. It would be useful to know the level of effort between the "self-certification without independent verification" and the "EPA verification" model, especially since in both cases the legal representative of the reporter needs to certify the accuracy of the report.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Douglas P. Scott
Commenter Affiliation: Illinois Environmental Protection Agency (Illinois EPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0387.1
Comment Excerpt Number: 12

Comment: The federal GHG reporting rule must ensure that the data used for far reaching policy decisions and implementation of programs is both comprehensive and quality controlled and assured at a high level. Furthermore, the U.S. EPA should recognize that current legislative initiatives will lead to broad GHG reduction requirements and that the original stated goal and requirements of the proposed rule need expanded. As it stands, the level of data validation in the proposed rule is not in line with the magnitude of the policy decisions and emissions programs on the horizon. A clear means to help address this shortfall is with the addition of third-party verification, in particular for those sources without continuous emissions monitors. Third party verification will ensure that reported data is high quality, credible and consistent in its calculation. Such high quality data is essential to support market-based GHG allowance and offset programs that appear to be forthcoming. Third party verification will also reduce data reliability issues for integration of any U.S. based cap and trade program into international programs involving the exchange of valuable emissions credits.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5.

Commenter Name: Douglas P. Scott
Commenter Affiliation: The Climate Registry
Document Control Number: EPA-HQ-OAR-2008-0508-0567.2
Comment Excerpt Number: 4

Comment: One of the most important aspects of The Registry's voluntary reporting program is its requirement of annual third-party verification of GHG data. Third-party verification is the systematic, independent, and documented process for the evaluation of a GHG emission report against agreed upon verification criteria. This process is similar to an audit of financial statements—it is an external attestation to the quality and accuracy of the reported emissions. The Registry's General Verification Protocol (GVP) contains the verification criteria, policies and procedures that Verification Bodies must comply with when conducting verification activities for Registry Members. (Please visit our website to view the GVP: http://www.theclimateregistry.org/downloads/GVP.pdf.) The Registry's verification program is based on the international standard for GHG verification ISO 14064-3 and incorporates the key principles of independence, ethical conduct, fair presentation, and due professional care. Verification Bodies must demonstrate and embody the above criteria to successfully review and assess GHG emission reports. A Verification Body is a firm that consists of technically competent and independent personnel (Verifiers) who are knowledgeable about GHG emissions inventories, management systems, and data and information auditing. Four major concepts play a key role in shaping The Registry's verification program: 1. Risk-Based Approach to Verification: Given the impossibility of assessing and confirming the accuracy of every piece of GHG information in an emissions report, The Registry adopted ISO 14064- 3's risk based approach to verification. This approach directs Verification Bodies to focus their attention on those data systems, processes, emissions sources and calculations that pose the greatest risk of generating a material misstatement. 2. Materiality: Verification Bodies use the concept of materiality to determine if omitted or misstated GHG emissions will lead to significant misrepresentation of a Member's emissions, thereby influencing conclusions or decisions made on the basis of those emissions. 3. Level of Assurance: The level of assurance a Verification Body attaches to its verification findings dictates the relative degree of confidence the Verification Body has in its assessment of the reported data. The Registry requires its Verification Bodies to provide a reasonable level of assurance that an emission report is materially correct. A reasonable level of assurance is considered to be the highest possible level of confidence. 4. Inherent Uncertainty: The Registry defines inherent uncertainty as the uncertainty associated with the inexact nature of calculating GHG emissions (metering equipment, emission factors, etc.). Inherent uncertainty also applies to the inexact nature of the calculations associated with The Registry's permitted use of simplified estimation methods (for up to five percent of a Member's emissions). In order to attest to the accuracy of an emissions report, a Verification Body must complete the following five core verification activities: 1. Assess conformance with The Registry's reporting requirements 2. Assess the completeness of the emission report 3. Perform a risk assessment based on a review of information systems and controls 4. Develop a sampling plan (identify records to be reviewed and facilities to be visited) 5. Evaluate the GHG emissions, information systems and controls against The Registry's verification criteria (e.g. five percent materiality threshold) The Registry requires Members to verify their emissions reports annually. To help keep verification costs as manageable as possible, The Registry permits a five-year verification cycle, wherein the same Verification Body and Member may contract together for a total of five calendar years. Verification Bodies must complete a comprehensive verification in the first year of the five year verification cycle. To do so, a Verification Body must confirm the identification of emission sources, review management systems, and sample calculated emissions for accuracy. In the remaining years of the five year

cycle, if no significant changes (either to the organization's structure, management systems, or emissions) occur, the Verification Body may elect to conduct a streamlined verification process wherein they verify emissions estimates, but do not review management systems and emission sources (as these have not changed). At the end of the verification process, a Verification Body must produce two documents: 1) a Verification Report that summarizes their verification activities and findings, and 2) a Verification Statement that attests to the Member's compliance with The Registry's reporting and verification requirements. To ensure the competence of the Verification Bodies in The Registry's program, The Registry adopted the international standard for accrediting GHG Verification Bodies (ISO 14065) and further defined specific Registry requirements additional to this standard. Through this process, Verification Bodies must demonstrate that they are independent, impartial, and competent to conduct GHG verifications. The Registry's Guidance on Accreditation (GoA) describes the details of The Registry's accreditation requirements. It is located on The Registry's website: http://www.theclimateregistry.org/downloads/GoA.pdf. Since ISO programs are implemented by national Accreditation Bodies, The Registry plans to partner with each of the three national Accreditation Bodies in North America to carry out its accreditation program. The American National Standards Institute (ANSI), the national Accreditation Body in the U.S., is the first Accreditation Body to partner with The Registry. The Registry is in the process of developing relationships with the Standards Council of Canada (SCC) in Canada, and Entidad Mexicana de Acreditación (EMA) in Mexico. ANSI manages a rigorous review of all interested Verification Bodies in an effort to assess each firm's independence, impartiality and competence. This process includes a review of a Verification Body's internal management systems, an assessment of the competency of their staff, and an onsite assessment of a Verification Body's ability to successfully complete the verification activities required by The Registry. In addition to the requirements of ISO 14065, Verification Bodies interested in conducting verifications for Members of The Registry must also demonstrate their ability to meet twelve additional accreditation criteria set forth by The Registry. The Registry participates in ANSI's review process and additionally "recognizes" the ANSI-accredited Verification Bodies deemed competent to conduct verification activities for The Registry. Only ANSI-accredited, Registry-recognized Verification Bodies are permitted to provide verification services to Registry Members.

Response: We acknowledge that different programs have different needs and that third party verification may be appropriate for some programs. However, we have determined self-certification with EPA verification is approach best suited to this reporting rule. We also acknowledge that there are many third party accreditation programs; however, we determined that none would meet the unique requirements of this rule without significant modification. For additional information on why we selected self-certification with EPA verification, see Section II.N of the preamble.

Commenter Name: Laurie Burt
Commenter Affiliation: Massachusetts Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0453.1
Comment Excerpt Number: 9

Comment: Massachusetts would like to highlight a critical difference between EPA's proposed rule and Massachusetts' program as it relates to verification. Under EPA's proposed rule, reporting facilities would self-certify that the information they submit to EPA is accurate and complete. EPA would then review the emissions and supporting data to verify that the

information is in compliance with the rule. Massachusetts has recently proposed additional oversight on data quality at the state level by requiring reporters to hire a third-party verifier once every three years to verify most elements of emissions reports. Third-party verification of emission reports and the underlying data provides greater assurance of data accuracy and reporting consistency within and across sectors. It is critical that a ton of GHG from a factory in Massachusetts equals a ton of GHG from a factory in California. Given the extremely wide variety of sources across the country that will be required to report, having third-party verifiers is one way to help ensure that all facilities are reporting in the same way. Massachusetts particularly supports the use of third-party verification for programs such as offsets and for sources already using independent or certified audits, such as suppliers of petroleum products. Given the progress being made in the development of international climate mitigation programs and the growing US interest in being able to participate in those programs, third-party verification is especially important to enable U.S. sources to participate in international market-based GHG allowance and offset programs. Massachusetts also encourages the use of third-party verification for all transportation fuel suppliers, including petroleum and biofuels suppliers, to support efforts to develop a low-carbon fuel strategy. Massachusetts urges EPA to discuss and work with states and with voluntary GHG reporting programs that require third-party verification, such as The Climate Registry, on opportunities for harmonization between state and federal verification requirements. In the long run, this will provide a more efficient and less confusing mechanism for facilities to report and verify emissions. Additionally, ensuring data quality by requiring third-party verification will ensure that EPA's proposed GHG Reporting Rule is fully capable of supporting any federal legislation regulating GHG emissions.

Response: The final rule retains self-certification with EPA verification. We acknowledge that different programs have different needs and we have determined a verification approach that is best suited to this reporting rule. EPA intends to work with States to develop a timely and efficient system to share data. See the preamble for the full response on the emissions verification approach. Also see the preamble for responses on the role of states and the relationship of this rule to other programs.

Commenter Name: Bernard T. Delaney
Commenter Affiliation: Association of Accredited Verification Bodies (AAVB)
Document Control Number: EPA-HQ-OAR-2008-0508-0531.1
Comment Excerpt Number: 5

Comment: EPA suggests that an EPA verification approach would result in a consistent verification approach applied to all submitted data. We argue that the rigorous third-party verification programs that exist today do ensure consistent verification and that the theoretical arguments made in EPA's supporting documents are unfounded. Further, it is widely accepted among the experts and practitioners working in the field that third-party verification is a best practice procedure in GHG reporting and that it improves rather than diminishes overall report data accuracy and consistency. We therefore disagree with this argument against third-party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Peter Boag
Commenter Affiliation: Canadian Petroleum Products Institute (CPPI)
Document Control Number: EPA-HQ-OAR-2008-0508-0428.1
Comment Excerpt Number: 8

Comment: Third party verification and audit. CPPI believes that taxation audit principles should prevail. Regulated facilities should be responsible for keeping all information required to support its filing and is open for review by competent authority.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Rechelle Hollowaty
Commenter Affiliation: Tyson Foods, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0379.1
Comment Excerpt Number: 7

Comment: Tyson believes GHG emission calculations should be verified internally. There is already obvious precedence with other regulatory air programs air construction permits, annual air emissions inventories, and Title V compliance which are all verified internally. As with the other regulatory air programs, the GHG reporting program can be verified externally through EPA or State Agency compliance auditing.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Bernard T. Delaney
Commenter Affiliation: Association of Accredited Verification Bodies (AAVB)
Document Control Number: EPA-HQ-OAR-2008-0508-0531.1
Comment Excerpt Number: 6

Comment: Per the proposed rule's preamble, the data collected under this rule will be used to inform future policy decisions. EPA in finalizing the reporting rule is encouraged to take into consideration the potential that the reporting rule may be used as an essential part of any future USA cap-and-trade scheme (as exemplified by the Waxman-Markey Bill). Data from the EPA reporting rule could be used in the baseline setting and the reporting requirements could form the formal framework for monitoring and reporting requirements within a cap-and-trade scheme. This is specifically important since any cap-and-trade scheme may become law before or very shortly after the EPA reporting rule becomes a requirement. The quality of data upon which any program, cap-and-trade or otherwise, is based is a critical parameter in the success of the program. It is thus imperative that the information used to inform any future policy is of high quality and integrity to avoid the costly mistakes seen historically when quality data were not available. Phase I [Footnote: Phase I of the EU ETS refers to the period 2005 to 2008, phase II to the current period running from 2008 to 2012] of the EU ETS, for example, has received noteworthy criticism due to a price drop in April 2006 that was mostly a result of insufficient awareness of challenges in the data set being used to set the baseline. Prior to Phase I commencement, most EU Member State governments performed quick Quality Assurance/Quality Control (QA/QC) checks on self-declared emissions data, which informed

their National Allocations Plans (NAPs). Unfortunately over-allocation (embedded within the NAPs) became apparent in the spring of 2006. When market participants learned that the EU ETS was significantly "long", the carbon price rationally declined to nearly zero for the remainder of the Phase I trading period. Subsequently, in Phase II the baseline setting process was strengthened and the NAPs crosschecked with verified emission data from 2005. As a result, Phase II of the EU ETS has so far not indicated any serious mis- or over-allocation. Third-party verification will help to ensure data credibility and accuracy and will help avoid potentially costly policy miscalculations. AAVB urges the EPA to take into consideration the competencies amongst existing technical verification companies to lead and conduct rigorous verifications of greenhouse gas inventories, and to provide a reasonable level of assurance on the reporting process. This is the approach that is in use in EU ETS and TCR and it has proved effective and suitable. These and other programs rely on the expertise of technical verification companies to assess GHG monitoring reports.

Response: The final rule retains self-certification with EPA verification. We acknowledge that different programs have different need and we have determined that a verification approach that is best suited to the reporting rule. For the response to the comment on the comparability of EPA's verification approach, see the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5 above. EPA intends to work with States and others to support harmonization across programs to the extent possible. See the preamble for discussion of the role of States and the relationship of this rule to State programs.

Commenter Name: William Koetzle
Commenter Affiliation: Chevron Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0352.1
Comment Excerpt Number: 6

Comment: Numerous jurisdictions have concluded that third-party verification enhances the value and credibility of submitted emissions reports. For example, the California Climate Action Registry ("CCAR") General Reporting Protocol states that "[t]he purpose of verification is to provide an independent review of data and information submitted to the California Registry, which ensures the credibility of the GHG inventories". [Footnote: CCAR General Reporting Protocol, section IV.14.1.]. The Western Climate Initiative has concluded that Third-party] verification is essential for sources covered by a cap-and-trade program given the diversity of emission sources and the vital public interest in ensuring accurate reporting." [Footnote: Testimony to the U.S. Environmental Protection Agency on the Proposed Mandatory Greenhouse Gas Reporting Rule On Behalf of the WCI Partner Jurisdictions, Michael Gibbs, April 16, 2009]. EPA's own contractor's report on verification systems states that "[t]hird party verification is used to address the need for consistency and a high level of confidence in the reported GHG emissions. [Footnote: Review of Verification Systems in Environmental Reporting Programs, ERG, February 10, 2009, section 1.1]. An important reason for the emphasis on independent third-party verification is that the complex emission monitoring and reporting requirements of the program create a significant amount of data that must be reviewed for accuracy. Third-party verification provides an independent evaluation of the GHG calculation process and helps to ensure all specified emission calculation methods are used correctly; that the emissions reports are accurate; and that reporters are in full compliance with their reporting obligations. Moreover, reporters can work with their third-party verifier to strengthen their internal GHG data and management processes, thereby improving the quality of subsequent reports. This incremental improvement in reporting accuracy is especially important where the

reported information will be used to develop benchmarks and baselines or will be used as part of a foundation for the distribution of allocations. These benefits are not likely to occur if EPA is the verifier.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. While third party verifiers may provide onsite compliance assistance, EPA disagrees that this potential advantage of third party verification would play a significant role in achieving compliance with the rule. The rule does not prohibit facilities from using contractors with knowledge and experience in GHG emissions reporting and verification to help them improve their data collection systems or to prepare or audit their emissions report. However, EPA is conducting a robust outreach and technical assistance program to help facilities comply with the rule. This program includes outreach materials consisting of Web-based applicability tools, fact sheets, and plan English guidance documents, which have been tailored to the various sectors and target small businesses and those industrial, commercial, and institutional sectors that are less familiar with air pollution regulation.

Commenter Name: Doug MacTaggart
Commenter Affiliation: C-Lock Technology, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0502.1
Comment Excerpt Number: 6

Comment: In the proposed rule, EPA takes the approach of self-certification by a reporting entity [stipulated in §98.3(c)(e) and §98.4(e)(1)], and verification of reported emissions by EPA. Problems with this include: (1) most reporting entities will not have the necessary knowledge or expertise to accurately quantify their emissions, (2) EPA will be overwhelmed by the workload associated with verifying reported emissions from several thousand entities every year, and (3) a market will open for unqualified and/or unscrupulous reporting consultants to assist reporting entities with the necessary quantification, certification and verification activities. We suggest that EPA and/or EPA-accredited organizations be available to assist reporters in quantification and certification of their emissions, and that this process by followed by third-party verification independent of EPA. Most internationally accepted protocols for quantification of GHG emissions, emission reductions and offsets are based on the concept of independent third-party verification. This approach provides for inclusion of oversight by a disinterested party and transparency of the process.

Response: The final rule retains self-certification with EPA verification. With regard to item 1, the rule specifies the monitoring methods that must be used to quantify emissions. Therefore, facilities do not have to determine how they will accurately quantify their emissions. They will have to comply with the monitoring, QA/QC, missing data, reporting, and recordkeeping provisions in the subparts that are relevant to their facility.

For the response to the comment regarding burden the program will place on the Agency (item 2), see the response to comment EPA-HQ-OAR-2008-0508-0212r, excerpt 5.

With regard to item 3, EPA is conducting an active outreach and technical assistance program that includes outreach fact sheets and plain English guidance documents designed to help facilities comply with the rule. These materials have been tailored to the various sectors and target small businesses and those industrial, commercial, and institutional sectors that are less

familiar with air pollution regulation.

Commenter Name: William Koetzle
Commenter Affiliation: Chevron Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0352.1
Comment Excerpt Number: 5

Comment: EPA's proposal requires significantly more raw unit-level operating data be submitted to EPA than is submitted to government agencies under third-party verification approaches or other existing emissions reporting programs. If this information is classified as public information under the Freedom of Information Act, competitors and others will be able to reverse engineer facility processes and operating characteristics, potentially harming the competitive position of reporting facilities. A system where emissions data is subject to third-party verification avoids this serious problem and reduces the risk of disclosure of confidential business information.

Response: The final rule retains self-certification with EPA verification. See the preamble for the response on the emissions verification approach, as well as the response on CBI.

Commenter Name: Olon Plunk
Commenter Affiliation: Xcel Energy Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0444.1
Comment Excerpt Number: 3

Comment: Verification should be flexible. For instance, entities that do not choose third-party verification should be allowed to proceed with their own submittals and EPA's verification alone. Self-certification should be permitted where GHG data is collected by continuous emission monitors under the Acid Rain Program, which has stringent quality assurance requirements to ensure that the data collected is accurate and valid. Likewise, streamlined verification processes should be made available where a certified, third-party verifier has already verified the data under consideration.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Henry Derwent
Commenter Affiliation: International Emissions Trading Association (IETA)
Document Control Number: EPA-HQ-OAR-2008-0508-0512.1
Comment Excerpt Number: 9

Comment: The draft rule appears to suggest that no appropriate accreditation system for third party verifiers is in place. IETA recommends that EPA adopt the international standard ISO 14065:2006 [FOOTNOTE: ISO 14065:2006 "Greenhouse gases - Requirements for greenhouse gas validation and verification bodies for use in accreditation or other forms of recognition."] and its accompanying International Accreditation Forum (IAF) guidance for the accreditation. This standard is currently being used by the American National Standards Institute (ANSI) for

accreditation under The Climate Registry (TCR). IETA believes this standard is appropriate for GHG accreditation or recognition of verification bodies.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0673, excerpt 1.

Commenter Name: Noor Osman
Commenter Affiliation: National Petrochemical & Refiners Association
Document Control Number: EPA-HQ-OAR-2008-0508-0220.1
Comment Excerpt Number: 8

Comment: There are no spot inspections or onsite verifications of emissions reporting. The owner of the facility affected by the rule selects a designated representative. This representative is legally responsible for the emissions data and would provide a signed certification that the emissions data are accurate. The EPA would then provide verification of submitted data. This concept is reminiscent of the Federal Mine Safety and Health Act of 1977, which requires that coal-mine owners measure miner exposures to respirable dust so that compliance with Federal health regulations can be monitored. Unfortunately, current and past studies all show "widespread underreporting" of exposures. In these cases, as it is not in the industries best interest to provide accurate exposure data. This type of underreporting is rampant in other regulatory areas as well. For example, a 2003 study compared air emissions reported by plants in the Toxics Release Inventory with chemical concentrations measured by EPA pollution monitors. It was found that the "large drops in air emissions reported by firms were not always matched by similar reductions in measured concentrations from EPA monitors." EPA verification may provide some evaluation of accuracy as well as confirmation that the calculations used were appropriate, but as studies indicate, self reported regulatory data are notoriously difficult to verify. Thus, the use of direct measurement practices is also ideal for the EPA verification process. Instead of devoting manpower to ensure the fact that data submitted adheres to a particular EPA standard, manpower should be devoted to the installation, maintenance, and quality assurance procedures necessary for the use of direct measurement processes (including CEMS).

Response: The final rule retains self-certification with EPA verification. EPA will implement a vigorous verification process to ensure the accuracy, comparability, and quality of data across all source categories. As described the preamble, the verification process includes onsite audits and other measures designed to ensure compliance with the rule. For more information on EPA's approach to verification, see Section II.N of the preamble.

Commenter Name: Jay Wintergreen
Commenter Affiliation: First Environment
Document Control Number: EPA-HQ-OAR-2008-0508-0228g
Comment Excerpt Number: 1

Comment: Based on our decade of experience in GHG consulting, we assert that the approach to verification, under the mandatory reporting regulation, should be third party verification. We believe the amount of effort by EPA to conduct verification of the reported material has been notably underestimated. The model rule covers broad and diverse source categories. Some with complex monitoring verification methodologies supported detail records and other evidence. Based on our firsthand experience as verifiers, the actual effort associated with EPA reviews

would exceed effort estimated, which we believe is based on other existing programs with a more narrow scope and less complicated data sets. The stake risk associated with the situation and potential failure to ensure complete and accurate data necessary for policy decisions as is the objective of the rule.

Response: The final rule retains self-certification with EPA verification. EPA disagrees with the commenter that we have underestimated the amount of time and resources required for Agency verification of the data. As described in Section II.N of the preamble, we plan to use an electronic reporting system to collect the data and use an automated verification system for the initial review of the data. Using this electronic QA system, EPA will be able to identify reports that contain errors, inconsistencies, or discrepancies and will target these facilities for additional review. This approach will reduce the time required to verify the quality and accuracy of reports and will also reduce the overall costs of the program. For additional information on our approach to verification, see Section II.N of the preamble.

Commenter Name: Kusai Merchant
Commenter Affiliation: Environmental Defense Fund
Document Control Number: EPA-HQ-OAR-2008-0508-0212.1h
Comment Excerpt Number: 6

Comment: Reliability through accountability. Accountability is necessary to ensure that emitters are responsible reporters and to ensure that reported data is reliable. EPA must establish rules that ensure robust and accurate reporting. They should include certification and verification, inspection, and other rigorous enforcement and oversight tools.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. For responses to enforcement comments, see the preamble and the comment response document on compliance and enforcement.

Commenter Name: John Bennett
Commenter Affiliation: SGS
Document Control Number: EPA-HQ-OAR-2008-0508-0228q
Comment Excerpt Number: 1

Comment: Experience gained in reporting verification under EU ETS, CCAR, the Alberta Specified Gas Emitters Regulation and The Climate Disclosure Project shows that material errors are frequently found even among entities who have been reporting for multiple years and doing it with the best resources and the best intentions available. Self-declaration supplemented by a quick review by either EPA or their contractors does not provide the assurance of accuracy, transparency, comparability and quality needed to implement cost-effective fair regulatory implementation within and across industrial sectors. Third party verification is simply a risk management tool accepted world-wide whenever quality and financial certainty is demanded. We cannot afford to repeat the over-allocation issues that have plagued other emission trading programs at startup. Then these were exacerbated by self-declaration of baseline inventories.

Response: The final rule retains self-certification with EPA verification. EPA will implement a vigorous verification process to ensure the accuracy, comparability, and quality of data across all

source categories. For additional information on EPA's verification system, see Section II.N of the preamble.

Commenter Name: J. L. Dougherty
Commenter Affiliation: Drexel University Earle Mack College of Law
Document Control Number: EPA-HQ-OAR-2008-0508-0235.1
Comment Excerpt Number: 4

Comment: The EPA should also be willing to spot check the accuracy of this data to ensure that it is being properly reported.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Henri Pierre Salle
Commenter Affiliation: KEMA
Document Control Number: EPA-HQ-OAR-2008-0508-0212r
Comment Excerpt Number: 8

Comment: I think it is important to consider the connectivity of this program, how it might connect with international programs in the future. There are a lot of people saying that in order to resolve this climate change issue and the threat it has to our environment and our coast lines and our businesses, that we have to connect with all the international bodies. What we do here in America should be acceptable overseas, particularly with respect to the EU, which has been involved in this for a long, long time and has programs that are up and running. They have some lessons learned that they can share with us about what we shouldn't be doing, how we shouldn't be thinking, because they have been involved with this for five or more years. We have to worry about the developing countries and how to connect with them and whether or not carbon trading and offset program would work for developing countries, to incentivize them to reduce their emissions. The bottom line is that the program that we have in the States should be transparent, acceptable to the international community, particularly the EU and the other Kyoto participants, and just a reminder that the third-party system is a part of all of that now, is well accepted, and the results are trusted.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: John Bennett
Commenter Affiliation: SGS
Document Control Number: EPA-HQ-OAR-2008-0508-0228q
Comment Excerpt Number: 5

Comment: EPA's reporting program must recognize the independent verification model that's been adopted throughout the world and embraced by the major voluntary and mandatory programs developed in North America to date. Any program that is implemented in the U.S. must ensure compatibility and consistency with internationally accepted standards so that allocations and credits created have credibility in the global marketplace.

Response: The final rule retains self-certification with EPA verification. EPA plans to implement a vigorous verification program that will ensure the same level of accuracy, transparency, consistency, and credibility achieved by programs that use third party verification. Consequently, the data reported under this rule will be comparable in quality and accuracy to emissions data reported under other programs. Furthermore, this verification method is the same approach adopted for the Acid Rain Program, which is a highly successful emissions cap and trade program that has consistently provided credible, high quality data for over ten years. For additional information on the methods EPA will employ for verifying reported data, see Section II.N of the preamble.

Commenter Name: Aaron Katzenstein
Commenter Affiliation: South Coast Air Quality Management District (SCAQMD)
Document Control Number: EPA-HQ-OAR-2008-0508-0228p
Comment Excerpt Number: 1

Comment: The proposed reporting rule required EPA to undertake verification of an estimated 13,000 reporting entities. Verifying emissions data from this many facilities totally by the EPA will not provide a detailed oversight of the reporting emissions. The verification of greenhouse gas emissions could occur through utilizing local air district staff which EPA can train and certify. Local air districts already receive emission reports for criteria and toxic pollutants from industries that will be required to report greenhouse gas emissions. The data facilities used in calculating criterion toxic emissions is also used in calculating greenhouse gas emissions. South Coast AQM staff believes we can provide value added service to industries that are already subject to our district's emissions audits and field inspections. We stand ready to work with EPA to streamline the reporting process for our local industries.

Response: The final rule retains self-certification with EPA verification. We intend to coordinate with State agencies to develop an efficient approach to facility audits and to identify other appropriate roles for States. See the preamble for the full response on the emissions verification approach and for responses on the role of States and the relationship of this rule to other programs.

Commenter Name: Henri Pierre Salle
Commenter Affiliation: KEMA
Document Control Number: EPA-HQ-OAR-2008-0508-0212r
Comment Excerpt Number: 7

Comment: EPA would have to hire, train, and perform with the requirements, and there would be a substantial effort to do that. In the third-party system, our auditors are scattered all over the country, in Canada, in Mexico as well, and so they are proximate to the sites that they would potentially visit. I would suggest it is not true in all cases, but in many cases, the travel costs are substantially lower than you would have from a central organization dispatching professionals to the sites. The people that do step up as process auditors and become trained to be verification auditors will be very close to the sites they have to visit, and I think the travel costs will be substantially diminished. In the case of EPA, of course, you would have to pay the travel costs. In the case of third-party certification, the emitter would be responsible for paying the cost of the

audit and the cost of the travel, and that is where the cost burden belongs, on the emitter and not on the taxpayer.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0228g, excerpt 1.

Commenter Name: Henri Pierre Salle
Commenter Affiliation: KEMA
Document Control Number: EPA-HQ-OAR-2008-0508-0212r
Comment Excerpt Number: 2

Comment: Focusing on accuracy and the integrity of the data, of course, we have to define all the sources of emissions, and we have to have trusted measurement of such sources. In order to do that, you have to have competent auditors. They must do on-site audits. Competence is more than just understanding the accounting principles and applying them properly in calculation. That is probably the least difficult of the training requirements for competence in these auditors. Probably the more important one is the knowledge of the process. The auditors have to be competent in the technology they are assessing. That is a very important point and a very difficult one for professional services companies to find the right people, to train them properly in the systems they employ to ensure that they are competent in the technology. There must be competent on-site review, therefore, consistent across bodies or people that are doing this work. There has to be some appropriate surveillance. Things do change in industry rapidly sometimes, and right now, the minimum requirements for most programs are once a year. Even that is challenging for many organizations and for certification bodies, but what it amounts to is a substantial amount of professional effort required to really have a program that has accurate data and is of high integrity. As I mentioned, the accounting techniques for calculation of these emissions are probably the most easily taught. Whereas, the process or technical knowledge is really experienced-based. You need people who are coming out of the environment of the industry in which they are evaluating, and you have ample management systems auditors and verifiers who have already proven their worth in the programs such as the California Climate Action Registry and The Climate Registry. So you have experienced operating people in the third-party system already that provide you with some available resources immediately and, of course, a strong starting point for the training of the hundreds of people that will be needed to enforce this rule because we have substantial effort to conduct an audit, to gather up all this verifying data. Of course, the EPA can do this, but the scale-up, the ability of the EPA to scale this up, and the costs are of a substantial concern, and part of that is who is shouldering the cost, is it the taxpayer or is it going to be the emitters.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0228g, excerpt 1.

Commenter Name: Henri Pierre Salle
Commenter Affiliation: KEMA
Document Control Number: EPA-HQ-OAR-2008-0508-0212r
Comment Excerpt Number: 5

Comment: I think the direct approach using EPA-only personnel, again, would be very difficult to scale up and manage in the time frame you have indicated and, of course, very costly and burdensome to the taxpayer. I think that FDA now visits one customer out of its seven every

seven years. Contrast that with the notified body people in medical devices who visit each customer each year. The oversight is much more substantial with a third-party system.

Response: The final rule retains self-certification with EPA verification. EPA disagrees with the commenter that we have underestimated the number of personnel and costs required to implement an EPA verification program. As described in Section II.N of the preamble, we plan to reduce the number of staff required by using an automated verification system for the initial review of the data. Using this electronic QA system, EPA will be able to identify reports that contain errors, inconsistencies, or discrepancies, which will allow us to target these facilities for additional review and onsite audits. To further reduce the burden on the Agency, we plan to use trained contractors as well as EPA staff to conduct the additional reviews and onsite audits. This approach will reduce the number of Agency staff required and will also reduce the overall costs of the program to the Agency. For additional information on our approach to verification, see Section II.N of the preamble.

Commenter Name: Henri Pierre Salle
Commenter Affiliation: KEMA
Document Control Number: EPA-HQ-OAR-2008-0508-0212r
Comment Excerpt Number: 3

Comment: Regarding the integrity of oversight, of course, we have standards by which we are operating, by which we are measured for consistent operating, and so those standards are intended to have us yield comparative results. Some of those standards are ISO 14064, Parts 1 and 2. Those are the verification standards for emitters. We, the verification bodies under the ANSI system, must conform to 14063, Part 3, and 14065. In addition, most of us are coming from a management systems background. So we are already complying with ISO 1702-1, which is a fundamental certification body standard. There is another one coming, 17021, Part 2, which addresses specifically the competence of people in a certification body. That should be published in 2010. There is 14066 which is the comparable standard for competence of verification, validation body personnel. That is coming probably about the same time, but, of course, we are all in possession of those drafts, and we are all working very hard to conform to those drafts before the standard is published. The use of these standards facilitates a consistent and a competitive approach -- sorry -- a competent approach. Certainly, the marketplace is facilitating a competitive approach. So, in the area of competence, we are required as certification bodies or now as verification bodies to determine the competence of the entire staff, the administrative folks, the management people, and the professionals who are doing the verification work directly, and the accreditation body is required to oversee that that system for determining and maintaining competence is properly executed and is performing well.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0673, excerpt 1.

Commenter Name: Laurie Burt
Commenter Affiliation: Massachusetts Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0212b
Comment Excerpt Number: 6

Comment: Finally, on verification, I think a critical difference between EPA's Proposed Rule and ours is related to verification. Under EPA's rule, reporting would be a self-certification

process with EPA, providing the verification that the information is in compliance with the rule. Massachusetts has recently proposed a check on data at the State level that would require reporters to retain a third-party verifier and to look at all the elements of emission reporting once every three years, not every year. That third-party verification of emissions and the underlying data, we feel provides a greater assurance of accuracy of data and consistency of reporting across all sectors, and that as we move to look at what kind of controls and incentives there will be economy-wide, that a verification system will be something very important to consider. We urge you to do so.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Henri Pierre Salle
Commenter Affiliation: KEMA
Document Control Number: EPA-HQ-OAR-2008-0508-0212r
Comment Excerpt Number: 4

Comment: In some cases, the government is actually involved. In The Netherlands, the government is doing random sampling of reporting companies, for emissions reporting companies, in order to validate to some sort of statistical competence level -- I think the number is 90 percent -- that the accredited certification body or verification body is doing its job properly, and that the results found by that body are consistent with what the government individuals would determine directly. This means there is a far less, far diminished requirement for government personnel. If you take the proposed Qwest telecommunications program for TL 9000, they are thinking about validation audits. They are proposing 23 audits per 1,500 sites, which would give them a 90-percent confidence level to validate certification bodies. This is a rather reasonable level, and if we are into 13,000, probably the number of validation audits required for such an effort would not be too burdensome on the government and would give the government a high confidence level. So the government in the case of medical devices, the Standards Council of Canada, the European Ministry of Health for each country is also doing witness audits with the notified bodies -- in the case of Canada, the CAMCAS-recognized bodies -- in order to make sure that they are doing the proper type of work and they have the competent people on their staff and they are making the right decisions and interpretations. So, once again, you have a system out there, a third-party system with government involvement if you so choose, which would allow you to have a high confidence level on third-party certification. It might be just the hybrid you are looking for.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0673, excerpt 1.

Commenter Name: John Bennett
Commenter Affiliation: SGS
Document Control Number: EPA-HQ-OAR-2008-0508-0228q
Comment Excerpt Number: 2

Comment: Entities who have chosen to engage third party verification realize a substantial value in return. These companies engage experienced experts in a quantification of GHGs to provide them with an accurate, confidential and robust information management system that is being utilized by these companies to benchmark and focus on cost management. Given the level of

expertise and experience provided by accredited third party verifiers, I am dumbfounded by the erroneous perceptions being proffered by industry and business who have never undergone third party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: C. S. Ramirez
Commenter Affiliation: None
Document Control Number: EPA-HQ-OAR-2008-0508-0258
Comment Excerpt Number: 4

Comment: I am also concerned that the proposed regulation does not offer a verification protocol, but rather asks for input on how to do so. This, I am sorry to say, is a question that is well above my expertise. However, I do appreciate that the agency is trying to relieve the burden on the reporting facilities by asking for input on how verification should occur and allowing them to make suggestions that will allow the agency to verify the data without disrupting operations.

Response: EPA is currently developing the automated QA system and onsite audit program that will be used for the verification of the reported data. For a general description of the verification protocol EPA plans to implement, see Section II.N of the preamble.

Commenter Name: Jay Wintergreen
Commenter Affiliation: First Environment
Document Control Number: EPA-HQ-OAR-2008-0508-0228g
Comment Excerpt Number: 4

Comment: While it is unclear from the proposed rule whether the corrective action process will be under EPA's verifier, it should be noted that the errors or omissions identified during the verification process could be considered violations under the rule and as such subject to enforcement, including civil and administrative penalties of up to $32,500 per day. Under a third party verification approach, such issues could be identified and resolved during a corrective action period before the verification opinion and associated GHG report is submitted to EPA.

Response: The final rule retains self-certification with EPA verification. As with other CAA rules, EPA has discretion to pursue a variety of informal and formal actions in order to achieve compliance. EPA will provide assistance for facilities that encounter difficulties complying with the rule. For additional discussion of compliance and enforcement, including a discussion of EPA's approach to enforcement and a list of deviations that are considered violations of the rule, see the preamble and separate comment response document volume for the response on rule implementation and enforcement. For additional information on why we selected self-certification with EPA verification and how we plan to implement the verification process, see Section II.N of the preamble.

Commenter Name: Jay Wintergreen
Commenter Affiliation: First Environment
Document Control Number: EPA-HQ-OAR-2008-0508-0228g
Comment Excerpt Number: 3

Comment: To report our operative potential value that third party verification can deliver over the proposed EPA as verifier approach. The first is protection of confidential business information. Relative to this issue, the preamble states that EPA would protect any information claimed as CBI in accordance with regulation. It should be noted in general emission data, under the Clean Air Act, cannot be considered to be CBI. In its own evaluation EPA has identified that the procedures for handling confidential business information is a con of EPA serving as verifier of reported data.

Response: The final rule retains self-certification with EPA verification. As we stated in the proposal preamble (see 74 FR 16488, April 10, 2009), emissions data collected under CAA sections 114 and 208 cannot be considered CBI. For information on our plans to address CBI and emissions data, see Section II.R of this preamble and Volume 9 (Legal Issues) of this document.

Commenter Name: Michael Gibbs
Commenter Affiliation: California Environmental Protection Agency
Document Control Number: EPA-HQ-OAR-2008-0508-0228m
Comment Excerpt Number: 3

Comment: We want to highlight the important difference regarding verification requirements between your proposed rule and the approach that has been recommended by WCI. The partner jurisdictions have examined issues surrounding requiring third party verification of emissions reports, and we have concluded that such verification is essential for sources that are covered by cap and trade program, given the diversity of the emission sources and in the vital public interest in ensuring accurate reporting. Also, we recognize that third party verification is the emerging international standard for GHG reporting, particularly in support of our market system. Just to be clear, the way we handle this in WCI is we recommended third party verification for all the emission reports of entities that are covered by the cap and trade program, which has a threshold of 25,000 metric tons of CO_2-e and above. And for those between our threshold of 10,000 for reporting and those that are covered by cap and trade program, reporting would be required but without the third party verification requirement.

Response: The final rule retains self-certification with EPA verification. EPA acknowledges that different programs have different needs and has selected an emissions verification approach that is appropriate for this rule. See the preamble for the full response on the emissions verification approach.

Commenter Name: Richard Bode
Commenter Affiliation: California Air Resources Board (CARB)
Document Control Number: EPA-HQ-OAR-2008-0508-0228a
Comment Excerpt Number: 3

Comment: Major differences between the AB regulation and the EPA proposed rule is independent third party verification. California included third party verification because we believe this approach will ensure high quality data that is consistent with international standards. To allow time for verifiers to be accredited and for reporters to learn our reporting tool, the California regulation allows for a one-year transition period where verification is not required but is recommended. Starting in 2010, third party verification is required for all data reporting. We recommend EPA add a third party verification to their rule and provide for a similar transition.

Response: The final rule retains self-certification with EPA verification. EPA recognizes that different programs have different needs and has selected an emissions verification approach that is appropriate for this rule. See the preamble for the full response on the emissions verification approach. Also see the preamble for discussion of allowing a best available monitoring methods approach for part of 2010.

Commenter Name: John Bennett
Commenter Affiliation: SGS
Document Control Number: EPA-HQ-OAR-2008-0508-0228q
Comment Excerpt Number: 3

Comment: I paid for mandatory third party verification of continuous emissions and monitoring systems or RATA testing annually for years, and I might add at a substantial cost. Now if the EPA or local air quality agencies believe this expensive, independent verification is necessary for systems that are inherently very accurate, why in the world would those same agencies allow the inherently inaccurate calculation of GHG emissions to be left to individual entities to interpret, estimate and submit without independent review and verification. A fraction of the cost already imposed by existing emission monitoring programs, and certainly no one is suggesting that CEMs be third party verified twice. They have already gone through that process.

Response: The final rule retains self-certification with EPA verification. For the discussion on why EPA decided not to require third party (independent) verification of emissions data for any of the source categories included in the rule and a description of how EPA's verification process will ensure high quality data, see the preamble for the response on the emissions verification approach. For a discussion of EPA's general monitoring approach, see Section II.L of the preamble.

Commenter Name: Dan Chartier
Commenter Affiliation: Edison Electric Institute
Document Control Number: EPA-HQ-OAR-2008-0508-0212.1b
Comment Excerpt Number: 1

Comment: We want to reemphasize EEI's support for the self-certification of data. Under the Acid Rain Program, EEI member companies have been reporting stack-level emissions data from continuous emission monitoring systems, or CEMs as they are known in the industry, from as early as 1993. The regulation in 40 CFR Part 75 that governs the operation of CEMs are among the most explicit regulations in existence today for emissions monitoring. These regulations cover a wide host of criteria, including requirements for daily instrument calibrations, test methodologies, recordkeeping requirements, relative accuracy test audits, and missing data

algorithms for periods when the monitors may be out of service. In EPA's Preamble to the Draft Rule, you refer to CEM data as "quality data," but, in fact, EPA has gone beyond this term to use quality data, refer to CEMs as a gold standard in emissions monitoring due to the consistency and accuracy of the data provided by these systems. In the Acid Rain Program and the NOx Budget Trading Program, CEMs are the standards by which emissions are measured to back up the highly successful SO2 and NOx Budget Trading Programs. Programs for money in the form of allowances is at stake and where accurate emissions data is essential to determine a company's cost to control emissions. I also want to emphasize that this data has been self-certified since the start of the Acid Rain Program. For the record, since many people are not familiar with the certification statement that must be signed by a designated representative at a company when data submitted to the EPA, I want to read for the record the certification statement that must be submitted with each data transmittal. That certification reads: "I am authorized to make this submission on behalf of the owners and operators of the affected sources or affected units for which this submission is made. I certify under penalty of law that I have personally examined and familiar with the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals whose primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment." And that's where the certification ends. Now, having worked at a utility and been responsible for signing this certification, I personally know that facing those type of penalties is a great incentive for submitting good data. I can tell you that this responsibility is not taken for granted within the utility industry. Utilities have extensive procedures and training programs for their employees to ensure compliance with those data reporting requirements. The reason I emphasize the CEM regulations, the data certification requirements, and the legal authorities available to EPA under the law is to refute the unsubstantiated claims of those who think that costly and expensive third-party verification is the only answer to ensuring data quality. EPA has designed and implemented one of the most cost-effective programs for self-certification of emissions data, a program that is based on explicit and stringent technical requirements and backed up by the full authority of the Clean Air Act for civil and criminal penalties. This model has worked for over 15 years for the existing programs, and this program of self-certification can work for the certification and submission of greenhouse gas emissions data as EPA has proposed in its current rulemaking.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Keith Dennis
Commenter Affiliation: First Environment, Inc
Document Control Number: EPA-HQ-OAR-2008-0508-0212q
Comment Excerpt Number: 1

Comment: Based on over a decade's experience working with the private sector in the greenhouse gas phase, we believe that EPA should include third-party verification in this rule, as described in option two of EPA's rationale for verification requirements. We believe that there are several flaws in EPA's rationale as it relates to cost and benefits of third-party verification. On page 156 of the Draft Rule currently posted to EPA's website, it is stated that EPA selected EPA verification over third-party verification because: one, EPA verification is consistent with other EPA programs; two, has lower cost; and three, would result in consistent verification

approach applied to all submitted data. On the first point, greenhouse gas reporting is significantly different from reporting under other EPA programs discussed in the rule's supporting material. Thus, while consistency with EPA programs may be a factor to consider, it should not be the driving consideration. We argue that in a comparison of approaches, you should value instead consistency with comparable best practices programs, such as The Climate Registry, California Air Resources Board's rule, California Climate Action Registry, EU ETS, and others, all of which require third-party verification.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0228q, excerpt 5 above.

Commenter Name: T. Moore
Commenter Affiliation: Drexel University Earle Mack College of Law
Document Control Number: EPA-HQ-OAR-2008-0508-0236
Comment Excerpt Number: 3

Comment: I ask the EPA to consider establishing some type of third party verification system regarding ensuring the businesses' emissions levels are truly in compliance.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Keith Dennis
Commenter Affiliation: First Environment, Inc
Document Control Number: EPA-HQ-OAR-2008-0508-0212q
Comment Excerpt Number: 3

Comment: Finally, EPA suggests that EPA verification approach would result in a consistent verification approach applied to all submitted data. We argue that the rigorous verification programs that exist today do ensure consistent verification, and that the theoretical arguments made in EPA supporting documents are unfounded. Further, it is widely accepted that among experts and practitioners working in the field that third-party verification is best practice procedure in GHG reporting, and that it improves rather than diminishes overall report data accuracy and consistency. We, therefore, disagree with this argument against third-party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: H.I. Bud Beebe
Commenter Affiliation: Sacramento Municipal Utility District
Document Control Number: EPA-HQ-OAR-2008-0508-0228r
Comment Excerpt Number: 1

Comment: I would like to add SMUD's voice to those who say that third party verification both saves time and increases commercial certainty. We have participated with The California Climate Action Registry. Now The Climate Registry protocols have had third party verifications since our 2002 entity-wide greenhouse gas reporting in those -- through those protocols. And

what we have found is that having to put your data together in an organized fashion for a third party verifier to come in and rather inexpensively verify, means that you have to really economize your overall data gathering. It does a great job of forcing entities to bring together in common standardized fashion their reporting. And it will really tighten up both the data quality and its availability to a third party verifier.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Wilhelm Wang
Commenter Affiliation: KEMA
Document Control Number: EPA-HQ-OAR-2008-0508-0212s
Comment Excerpt Number: 1

Comment: The need for the data accuracy consistencies, completion, transparency, it is paramount, regardless of what the user may be. The user could be regulator. The user could be the board of directors who needs to disclose certain financial aspects that pertain to carbon. After all, carbon has become significant in many organizations and board rooms these days. If not, it is certainly expected to be. In one scenario -- and I appreciate the last comment by Mr. Salle indicating the outside verification is very important -- here is a case. Oftentimes, if we look at just simple utility bills and conversion factors and making sure the calibration of the meters and so forth that one could do, in theory those calculations and applying appropriately the conversion factor to come out with the desired number for inventory of greenhouse gas, that is in theory. In reality, where are those data coming from, all different points, throughout the organization? If you are talking about direct emissions, there are various types, leaks, potentials, valves. How are they comprehensively and completely monitored and recorded? That is the first question I would raise. If somebody showed me, hey, this is verified information, this is what we have done, these are the desktop reviews that we have completed following our procedures, what have you, I would say, well, have you seen the process itself, do you know if the pipe is still there, the valve is still closed. Those things are almost impossible to verify. In fact, I will give you one example. In one of the clients where we actually used the -- it is a foundry operation, and the fuel, natural gas, there is a bill, but there is no per-meter breakdown. They have four foundries. Each one -- it is actually two. It is pretty complicated because of the way they are configured, one stream is coming, actually separates to two and so forth. So, when we start looking at a number, I need to go up all the way to the meter that is on the top of inside the roof to see that reading because they do take monthly readings and do a cumulative calculation and so forth. How can I take comfort in those monthly readings had I not actually witnessed how those readings are being taken and actually recorded, number one? It is very difficult. It is not your usual just open up the cap and see and read. It is actually you need to lift a person all the way up to the roof on a catwalk. You have to walk several hundred feet to reach to that meter to read that. There is no electronic transmission whatsoever. So the first question a common person would ask, a sensible person, are you doing this manually every month. If you take it from an OSHA perspective, it would take at least 15 minutes just to dress up and put on all the full protection and get the equipment right to get people up there. Every month, they do that. I verified it because I saw the number. I saw the meter number. I read exactly the serial number on there, but how do I know the meter is still the right meter? It turns out when I asked that question, there were renovations and changed meters. Everybody knows when you do the calculations. When you change the meter, you better verify the accuracy again, is the conversion factor still applicable. All these questions came up, and in a very simple mind, a private citizen myself, how can I look at a number and take comfort

in those? Has somebody actually not gone on site and verified? I will give you another sample, and this is analogy. I drove a Jeep. This is not a commercial, no endorsement whatsoever. It just happened to suit my needs. I drove the Jeep from New Jersey to D.C. last night. I do, do my household inventory on fuel. Somebody can come in and verify me. I can either give my gas ticket or the fuel, actually the gas bill. I fueled twice. That is pretty much down to a science. I often drive from New Jersey to D.C. I can give that person that fuel, but, in fact, the fuel, I never completed using if I filled up a complete tank. I don't need the whole tank coming down here, do I? So how much am I going to take a deduction? Who is going to be verifying that remotely? I simply just provide my gas receipt and say this is how many gallons I put in here. Okay. They say wait a second. Then it defines. There is a defined distance, mileage. I can go that way. Sure. Sure, you can, but how do you know I did not take a detour to the Newark Airport to pick up my friends and go down to Philly and see a client if I come down to D.C. and go back? So these are the real thinking and the real example in real life dealing with regulators and obligation to the community, to the regulators, as well as from the business perspective. It has to be sensible. It has to be reliable. That is the bottom line.

Response: The final rule retains self-certification with EPA verification. EPA's verification approach will include an onsite auditing program conducted by trained and experienced EPA staff and/or contractors. See the preamble for the full response on the emissions verification approach.

Commenter Name: Angus E. Crane
Commenter Affiliation: North American Insulation Manufacturers Association (NAIMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0537.1
Comment Excerpt Number: 10

Comment: EPA correctly concluded that third party verification is unnecessary. NAIMA supports EPA's verification approach as appropriate for each source category (74 Fed. Reg. at 16,463). NAIMA believes that self-certification with EPA verification will eliminate unnecessary costs on industry. Third party verification requires reporters to hire, at their expense, third-party verifiers. EPA estimates that third party verification would cost each glass production facility approximately $5,000 per year. (Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Proposed Rule (GHG Reporting), Final Report, EPA-HQ-OAR-2008-0508-0002[1], at 5-25). This increases by nearly 50% the estimated $11,000 cost for a glass production facility to comply with the proposed rule. Importantly, these costs are avoided where, as here, the proposed rule requires no third party verification. Also avoided are the costs of developing costly administrative procedures for the accreditation, approval, and monitoring of third-party verifiers. Therefore, EPA correctly concluded that EPA verification is superior to third party verification because: (1) EPA verification, unlike third-party verification, provides a consistent approach to verification from one centralized verifier, EPA, instead of a variety of separate verifiers; (2) EPA verification centralizes the function and provides the government a greater ability to identify trends and outliers in data; and (3) EPA verification "is consistent with other EPA emissions reporting programs including EPA's [Acid Rain Program]." (Id. at 16,477). NAIMA urges EPA not to impose third-party verification on any aspect of the reporting requirements.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: David Fairfield
Commenter Affiliation: National Grain and Feed Association (NGFA)
Document Control Number: EPA-HQ-OAR-2008-0508-0463.1
Comment Excerpt Number: 9

Comment: The NGFA supports the self-certification process of reporting data as proposed within the rule. We agree with EPA's position that this approach is consistent with many other EPA regulatory programs. We believe that this type of self-certification process has proven to be effective in verifying the completeness and quality of data reported under other EPA programs. One example of such a process is found within EPA's Toxic Release Inventory regulations, where a company self-certifies that data provided to the agency is truthful, accurate and complete

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: D. Lawrence Zink
Commenter Affiliation: Montana Sulphur & Chemical Company Inc. (MSCC)
Document Control Number: EPA-HQ-OAR-2008-0508-0505.1
Comment Excerpt Number: 11

Comment: We believe that EPA's approach of self certification with EPA verification is appropriate for reporting required under this proposed program. The same information reported under other EPA programs should not be required to be reported differently under this program. Doing so complicates the picture unnecessarily.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: David Fairfield
Commenter Affiliation: National Grain and Feed Association (NGFA)
Document Control Number: EPA-HQ-OAR-2008-0508-0463.1
Comment Excerpt Number: 10

Comment: The NGFA strongly opposes the EPA-considered option of requiring third-party certification of reported information. An EPA mandate to require third-party certification of reported information would result in an excessive cost and administrative burden to affected facilities. Further, we believe requiring the use of third-party certifiers could lead to inconsistent verification results and potential conflict-of -interests. We strongly believe that it is EPA's responsibility and rightful role to verify the accuracy and completeness of reported data, and to do so in an impartial and consistent manner.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Charlie Burd and Nicholas DeMarco
Commenter Affiliation: Independent Oil and Gas Association of West Virginia (IOGA-WV) and West Virginia and Natural Gas Association (WVONGA)
Document Control Number: EPA-HQ-OAR-2008-0508-0516.1
Comment Excerpt Number: 8

Comment: The proposed rule provides that EPA will verify the submitted GHG emissions reports, as opposed to third-party verification. The WV Associations are supportive of this proposal and recommend that the final rule retain this approach. The use of third-parties to verify GHG emissions would be extremely costly and time consuming for the reporters, and would require additional time for the reports to ultimately reach the Agency. Furthermore, third-party verification would create potential inconsistencies in the data submitted and would result in additional costs to EPA to verify and audit reports. For all of these reasons, the WV Associations are supportive of EPA verification of the emission reports.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Wesley L. McNealy
Commenter Affiliation: Pepco Holdings, Inc. (PHI)
Document Control Number: EPA-HQ-OAR-2008-0508-0547.1
Comment Excerpt Number: 11

Comment: PHI supports the EPA proposal for the "self-certification with EPA verification" option, which is consistent with many established, EPA regulatory programs. PHI agrees that the program of self-certification is appropriate and should work well for the collection and submission of greenhouse gas emissions data as EPA has proposed in its current proposed rulemaking. In short, PHI believes that the appropriateness and necessity of third party verification, whether through this proposed rulemaking or future rulemaking, raises serious concerns for the reporting companies; and such verification requirements would place undue, additional costs on reporting facilities, not to mention the substantial addition of resources at EPA at a time of increased government deficits. In our experience, existing regulations such as 40 CFR Part 75 that govern the operation of CEMS are among the most explicit regulation in existence today for emissions monitoring. These regulations covers a wide host of criteria including requirements for daily instrument calibrations, test methodologies, record keeping requirements, relative accuracy test audits and other specific protocols when the monitors may be out of service. Under its existing Clean Air Act programs, EPA has implemented strong and cost-effective programs for self-certification of emissions data. This model has helped ensure the completeness and quality of reported emission data for over 15 years, and this program can work for the collection and submission of greenhouse gas emission data as EPA has proposed in its current rulemaking.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Michael E. Van Brunt
Commenter Affiliation: Covanta Energy Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0548.1
Comment Excerpt Number: 16

Comment: We strongly support self-certification with EPA verification without a requirement for 3rd party verification. Such an approach is consistent with other regulatory programs administered or delegated by the EPA, including Clean Air Act compliance. We do not believe that a "Certificate of Representation" is necessary for the implementation of the Rule. Other regulatory programs, including Title V, do not have this separate step for the reporting of data to the EPA. Requiring this additional step will not add to the efficacy of the Rule.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: William C. Herz
Commenter Affiliation: The Fertilizer Institute (TFI)
Document Control Number: EPA-HQ-OAR-2008-0508-0952.1
Comment Excerpt Number: 67

Comment: TFI generally supports the NPRM option of self-certification with EPA verification. 74 Fed. Reg. at 16,477. This option provides reasonable assurance of the accuracy, completeness and consistency of the reported data and does not require reporters to hire third-party verifiers. TFI feels that the EPA verification option requiring the establishment of an accreditation and approval program for third-party verifiers is not warranted or feasible within the timeline options presented by EPA in the NPRM.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Henri Pierre Salle
Commenter Affiliation: KEMA
Document Control Number: EPA-HQ-OAR-2008-0508-0212r
Comment Excerpt Number: 6

Comment: Self-declaration is a minimum cost, but it is also minimum assurance of objectives and being met out of consistent performance. Most serious environmental reporting systems consider self-declaration to be inadequate and potentially misleading. We would discard self-declaration as an option immediately. Certainly, the international community's view of a greenhouse gas reporting and the place of each country in the context of overall climate change over the years and these goals established by Kyoto and presumably by Copenhagen later this year would not consider self-declaration to be, let's say, valid in terms of the U.S.'s potential commitment to such goals.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Thomas Siegrist
Commenter Affiliation: Koch Nitrogen Company LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0351.1
Comment Excerpt Number: 21

Comment: KNC supports EPA's decision to require self-certification with EPA verification of emissions quantities using supporting data submitted by the reporting entities. Id. at 16614 (proposed § 98.3(c)(8)). As noted by EPA in the preamble, this approach is consistent with that utilized in many other EPA programs. Id. at 16476. Self-certification with EPA verification ensures that accurate emissions data are available to all interested parties while minimizing the overall cost and time required for emissions inventory preparation and submittal. EPA should retain the self-certification approach in the final rule.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: None
Commenter Affiliation: Vectren Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0597
Comment Excerpt Number: 4

Comment: Congress with the enactment of the Clean Air Act Amendments of 1990 provided for the establishment of the Acid Rain Program, which, in general, regulates SO2 and NOx emissions of electric utility units that serve a generator with a capacity of more than 25 MW and such units are, pursuant to EPA regulations, subject to continuous monitoring and reporting. Separately, Congress enacted §821 of Public law 101-549, which directed EPA to require monitoring of CO_2 emissions from all affected units and to report the data to EPA "in the same manner and to the same extent" as required by the Acid Rain Program under title IV of the CAA. Carbon dioxide emissions monitoring is subject to the same proven and stringent quality control and accuracy requirements of SO2 and NOx under the existing Acid Rain Program. The regulations in 40 CFR Part 75 that govern the operation of emissions monitoring systems under the Acid Rain Program are among the most explicit regulation in existence today for emissions monitoring. These regulations cover a wide host of criteria including requirements for daily instrument calibrations, test methodologies, record keeping requirements, relative accuracy test audits and missing data algorithms for periods when the monitors may be out of service. EPA has designed and implemented one of the most cost-effective programs for self certification of emissions data – a program that is based on explicit and stringent technical requirements, and backed up by the full authority of the Clean Air Act for civil and criminal penalties. This model has worked for over 15 years for the existing programs, and this program of self certification can work for the collection and submission of greenhouse gas emissions data as EPA has proposed in its current rulemaking.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Myron Hafele
Commenter Affiliation: Kohler Co.
Document Control Number: EPA-HQ-OAR-2008-0508-0761.1
Comment Excerpt Number: 4

Comment: As proposed, Kohler Co. supports self-certification of data with EPA data verification. Self-certification with EPA verification has proved valid for other EPA reporting requirements (i.e. Title V, NESHAPs, TRI) and is also appropriate under this rule. It is not warranted to require the additional cost that 3rd party verification would place on facilities.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Michael S. Dae
Commenter Affiliation: Energy Developments, Inc. (EDI)
Document Control Number: EPA-HQ-OAR-2008-0508-0706.1
Comment Excerpt Number: 7

Comment: EDI believes that it is unusual and unnecessary to require costly third party verification of these reports. Numerous reports are currently required and submitted without the added burden of third party verification. It is difficult to understand why the reports from the proposed Rule require this added effort and expense.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Keith Epperson
Commenter Affiliation: American Feed Industry Association (AFIA)
Document Control Number: EPA-HQ-OAR-2008-0508-0399.1
Comment Excerpt Number: 7

Comment: To ensure the completeness and quality of data reported to the program, EPA proposes self-certification with agency verification. Under this approach, EPA states that all reporters subject to the rule would certify that the information they submit to EPA is truthful, accurate and complete. EPA then states that the agency would review the emissions data and supporting data submitted by reporters to verify that the GHG emission reports are complete, accurate and meet the reporting requirements of the rule. AFIA supports the self-certification process of reporting data as proposed within the rule. We agree with EPA's assertion that this approach is consistent with many other EPA regulatory programs. We also believe that this type of self-certification process has proven to be effective in verifying the completeness and quality of data reported under other EPA programs. However, AFIA strongly opposes the EPA-considered option of requiring third-party certification of reported information. An EPA mandate to require third-party certification of reported information would result in excessive costs and an unjustified administrative burden to affected facilities. Further, we believe requiring the use of third-party certifiers could lead to inconsistent verification results and potential conflict-of - interests. AFIA strongly believes it is EPA's responsibility and rightful role to verify the accuracy and completeness of reported data, and to do so in an impartial and consistent manner. Additionally, within EPA's Toxic Release Inventory regulations program, self-certification has

proven to be a successful, as companies self-certify to EPA that all the information they submit is truthful, accurate and complete.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Craig S. Campbell
Commenter Affiliation: Lafarge North America
Document Control Number: EPA-HQ-OAR-2008-0508-0674.1
Comment Excerpt Number: 6

Comment: Lafarge supports EPA's proposed approach of self-certification with EPA verification. This is a highly effective method currently used for other reporting requirements under the CAA. We have high confidence that this approach should prove itself equally effective for this greenhouse gas reporting program.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Michael Garvin
Commenter Affiliation: Pharmaceutical Research and Manufacturers of America (PhRMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0959.1
Comment Excerpt Number: 6

Comment: PhRMA supports EPA's approach regarding verification of the GHG emissions data required under the proposed GHG reporting rule. PhRMA believes that the appropriate approach is to have companies submit their emissions to EPA or to delegated state agencies and to have to the agencies review the emissions following the approach that is currently used for SARA TRI and state air emissions reports. The added cost and burden associated with requiring third party verification will not add additional certainty to the data, because facilities are required to self-certify the emissions.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Linda D. Sullivan
Commenter Affiliation: National Grid
Document Control Number: EPA-HQ-OAR-2008-0508-0608.1
Comment Excerpt Number: 6

Comment: National Grid supports a self certification program or, as proposed, US EPA verification of reporting. We do not support third-party verification as it would impose additional and entirely unnecessary costs. Self certification, in which an officer or designee of the company certifies that the reporting is accurate, works well in the NOx and SO2 programs and would be very appropriate for this program. National Grid currently tracks and reports under other programs and has never viewed self certification as problematic and has not encountered any opinion from those programs to suggest otherwise. The US EPA, unlike voluntary programs,

retains the right to conduct audits, inspect facilities and records, and assess fines and penalties and thus there is nothing to be gained by requiring that a third party verify the reporting.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Kyle Pitsor
Commenter Affiliation: National Electrical Manufacturers Association (NEMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0621.1
Comment Excerpt Number: 5

Comment: The NEMA Carbon/Manufactured Graphite EHS Committee believes the EPA correctly addressed the verification requirements by proposing self-certification with EPA verification. Mandating independent third-party verification would have imposed a tremendous cost burden on facilities that already will incur significant costs in meeting their recordkeeping and reporting obligations under the proposed rule.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Scott Manley
Commenter Affiliation: Wisconsin Manufacturers & Commerce (WMC)
Document Control Number: EPA-HQ-OAR-2008-0508-0728.1
Comment Excerpt Number: 5

Comment: As proposed, WMC supports self-certification of GHG emission data with EPA data verification. Self-certification with EPA verification has proved to be a valid and reliable mechanism for other EPA reporting requirements (i.e. Title V, NESHAPs, TRI), and is also appropriate under this rule. The additional costs associated with third-party verification is not warranted, and would significantly add to the rule's compliance cost for affected companies.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: David R. Case
Commenter Affiliation: Environmental Technology Council (ETC)
Document Control Number: EPA-HQ-OAR-2008-0508-0664.1
Comment Excerpt Number: 4

Comment: The ETC supports the verification approach in the proposed rule to ensure accuracy and completeness of reported emissions data. In particular, third party verification of data would be extremely costly and unnecessary. All facilities would be required to certify that the information they submit to EPA is truthful, accurate and complete, subject to legal penalties. EPA would then review the emissions data and supporting data to verify compliance with the rule. This approach to self-certification with EPA verification is reasonable and sufficient.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Patricia A. Meehan
Commenter Affiliation: New York Power Authority (NYPA)
Document Control Number: EPA-HQ-OAR-2008-0508-1569
Comment Excerpt Number: 4

Comment: Consistent with other federal programs, self-certification with EPA verification is an appropriate mechanism to use to validate the data, The use of a third-parry verifier will increase the cost to the reporter and if the third-party verifier is inexperienced or unqualified can cause delays and confusion. It is our recommendation that the data be self certified with EPA verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Ram K. Singhal
Commenter Affiliation: Rubber Manufacturers Association (RMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0600
Comment Excerpt Number: 17

Comment: EPA has proposed that self-certification of emission inventories instead of third-party verification of the inventories would be sufficient. RMA agrees. Under the Clean Air Act, responsible officers certify the truth, accuracy and completeness of information submitted to state and federal agencies, and this is subject to the civil and criminal penalties of the CAA, which currently are approximately $30,000 a day per violation. It is unnecessary and unreasonable to require further verification by third parties.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Douglas Hileman
Commenter Affiliation: Douglas Hileman Consulting LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0704.1
Comment Excerpt Number: 4

Comment: While I understand that the regulated community may object to comprehensive mandatory verifications, this is not the only mechanism for independent monitoring. I believe that laws, regulations, and policies governing reporting, trading, or reductions should include provisions for independent auditing, verification, and good governance. While laws and regulations need not specify mandatory practices, they should instruct the EPA to acknowledge these practices, and to include significant incentives for companies to adopt the full range of good governance practices. The EPA, the regulated community, and the public at large can take comfort that there are well-established leading professional associations dedicated to Environmental Auditing, and that the profession stands ready and able to help increase the confidence in data in the GHG Registry.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: J. P. Blackford
Commenter Affiliation: American Public Power Association (APPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0661.1
Comment Excerpt Number: 8

Comment: APPA supports the provision for EPA verification of GHG emissions data in the Proposed Rule. APPA utility members already report a wide variety of emissions data either through the appropriate state agency, or directly to EPA, and none of those data required outside verification. EPA is already the verifier for the Acid Rain Program, and the CO_2 data might already be submitted in that situation, especially for units with CEMS. In addition, EPA already has significant audit authority which it has used from time to time to verify reports and test monitoring equipment. APPA believes that any party that would serve as an independent verifier has to be viewed as impartial and that each verifier should follow the same verification standards. If this is the case, EPA would need to establish these standards and ensure the verifier was complying with those standards. Thus, there is no additional benefit to having a third party verify the data. APPA can think of no more impartial verifier of data than the EPA itself. Given the accuracy of the acid rain reporting program over almost 20 years, APPA believes there is no rational reason to require third party verification. The EPA verification of data would minimize the costs to achieve compliance, and would not reduce the quality of the data. APPA is also concerned about the potential lack of qualified 3rd party verification capacity, particularly in early years, that will likely cause verification costs to skyrocket, causing undue cost burden on reporting entities. Further, in using 3rd party verifier, the liability associated with incorrect reporting would still be on the reporter, thus mitigating the purpose of a 3rd party. APPA is also concerned with the additional time that would be required to have the data verified by a third party. The Climate Registry has encountered these issues and has had to extend the due date for the verification reports until December to accommodate the additional time required for data verification. If EPA wanted to receive data by June (as APPA prefers) or March (as in the proposed rule), third party verification would be nearly impossible.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Reed B. Hitchcock
Commenter Affiliation: Asphalt Roofing Manufacturers Association (ARMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0794.1
Comment Excerpt Number: 3

Comment: In the GHG Reporting Proposal, EPA has wisely chosen not to require that a facility's calculation of GHG emissions be verified by a third party. Requiring third party verification would significantly increase compliance costs, while providing little in the way of increased accuracy. Other EPA reporting programs, such as the Toxics Release Inventory (TRI) do not require third party verification, and there is no real sacrifice in the veracity of the data. In fact, requiring third party verification is almost unheard of in EPA reporting programs. Because most of the ways to calculate GHG emissions under the proposal are relatively straightforward

and because requiring such verification would increase compliance costs, EPA should retain the position found in the GHG Reporting Proposal.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 8
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0709.1
Comment Excerpt Number: 3

Comment: We agree with EPA that self-certified emission reports, subject to EPA verification, will result in sufficient accuracy and quality assurance. As we have commented in the past, there is no need for EPA to require the type of third party verification used by the California Climate Action Registry (CCAR) and The Climate Registry (TCR), because unlike these voluntary programs, EPA has robust enforcement powers under the Clean Air Act, including significant daily penalties and other civil and criminal sanctions. Our members' experience with third party verification in the California Climate Action Registry indicates that there are not enough qualified verifiers available to handle even the current level of demand generated through voluntary reporting programs. Companies have found that the third party verifiers often have no experience with the industry they are reviewing, and the process deteriorates into an exercise in training the verifiers at great expense and without any noticeable improvement in the quality of the data being reported. In short, it is a wasteful expense. EPA accepts self-certified emissions reports under other Clean Air Act programs and has not found any need to require third party verification in order to obtain good quality data. Self-certification with verification by EPA will provide good quality data without the useless cost of third party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Ronald H. Strube
Commenter Affiliation: Veolia ES Solid Waste
Document Control Number: EPA-HQ-OAR-2008-0508-0690.1
Comment Excerpt Number: 3

Comment: Veolia supports EPA's proposal that the Agency, not a third party, verify the accuracy of reported data. The EPA currently analyzes and verifies data collected under numerous statutory authorities including the Clean Air Act, Resource Conservation and Recovery Act, Clean Water Act and others. Greenhouse gas reporting is very similar in nature and technique to the various emission reporting requirements required by the Clean Air Act. None of these require third party data verification, yet they all include enforcement provisions. These provisions provide significant disincentives for inaccurate reporting. EPA's experience in analyzing or verifying data submitted under these and other statutes ensures that the Agency is the appropriate verification agency. Requiring the use of third party verifiers will add unnecessary costs, create delays in reporting data to EPA, lead to inconsistent data reporting, and increase EPA's own data verification and audit costs. We believe the certification language under the existing Clean Air Act and as required under §98.4 (e) of the proposed regulation is

more than sufficient to ensure the accuracy of the reported data and therefore third party verification is not warranted.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: John M. McManus
Commenter Affiliation: American Electric Power
Document Control Number: EPA-HQ-OAR-2008-0508-0725.1
Comment Excerpt Number: 3

Comment: EPA has built a highly successful program under 40 CFR Part 75 for cost-effective self-certification (with EPA verification) of emissions data and AEP strongly supports the proposed rules for continuing this model for GHG reporting. Strong reporting systems have been built, and continue to be improved, by AEP to provide EPA with high quality emissions data. Third party audits performed by NASD/FINRA as part of AEP's legally binding participation in the Chicago Climate Exchange have consistently verified the high quality of data. These findings support EPA's choice for mandatory GHG reporting with self-certified data (subject to EPA verification) and demonstrate that third party verification is unnecessary.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Shannon Lucas
Commenter Affiliation: Texas Mining and Reclamation Association (TMRA)
Document Control Number: EPA-HQ-OAR-2008-0508-1028.1
Comment Excerpt Number: 1

Comment: TMRA supports EPA's overall goal of developing an accurate and reliable registry of GHG emissions in the United States to assist in policymaking moving forward, There are several aspects of EPA's proposed rule as currently written that TMRA supports. Two of the key areas of support include: The self-certification procedure will result in accurate reporting of GHG emissions data without imposing unnecessary additional cost on industry. TRMA concurs with EPA that the best source of accurate data is from the industry itself and applauds EPA for pursuing the collection of GHG emissions data in this manner. TMRA believes that the penalties associated with the reporting requirements are sufficient to deter companies from falsely reporting GHG emissions data.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Keith A. Nagel
Commenter Affiliation: ArcelorMittal USA and Severstal North America
Document Control Number: EPA-HQ-OAR-2008-0508-0496.1
Comment Excerpt Number: 33

Comment: We strongly support EPA's conclusion that third-party verification is unwarranted. Regulated entities nationwide already report a wide variety of emissions information either through the appropriate state agency, or directly to EPA. Reporters are required to certify the accuracy of all information submitted. This system has been in place for decades and has been remarkably successful – in large part because the regulated community takes certification very seriously. It would be illogical to allow self-reporting with certification for criteria pollutants, hazardous air pollutants and TRI chemicals while applying a different "third-party" standard to GHGs. To the extent EPA believes additional protection beyond self-certification is necessary, it already possesses audit authority which it has used from time to time to verify reports and test monitoring equipment. Interruption of the longstanding, successful tradition of self-certification under the Clean Air Act by the forced addition of third-party verifiers would come at a significant cost to the regulated community – on top of the notable manpower, testing and equipment costs already required to comply. Third-party verification costs would be most substantial at large, complex facilities like integrated steel mills. [Footnote: We are also concerned about the potential lack of qualified third-party verification capacity, particularly in early years. That shortage would likely cause short-term verification costs to skyrocket, imposing an even greater cost burden on reporting entities.] Mandating third-party verification would also substantially delay reporting because that additional step could only occur after the full effort otherwise necessary to comply had been completed. [Footnote: The Climate Registry has encountered these issues and had to extend the due date for reporting to accommodate the additional time required for third-party verification.] Third-party verification offers absolutely no real world benefit to offset the burdens and delays it would cause. Only operators – not third parties – have the expertise to properly assess GHG emissions from intricate steelmaking operations and other complex facilities. Operators already have every incentive – financially, legally and practically – to carefully assess and accurately self-report GHG emissions. Nothing more is necessary or appropriate.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Filipa Rio
Commenter Affiliation: Alliance of Automobile Manufacturers (Alliance)
Document Control Number: EPA-HQ-OAR-2008-0508-0630.1
Comment Excerpt Number: 26

Comment: The Alliance supports EPA's proposed self-certification approach without the requirement for third party verification. The additional cost for hiring a third party to prepare a verification statement is not necessary. Likewise, the cost for EPA to conduct verifications in lieu of third party verification will also be significant considering the need to develop and implement an internal verification program. Furthermore, it would be a difficult task for EPA to verify an estimated 13,000 reports, let alone ensure consistent verification of all reports. Funds that would be used toward third-party or EPA verification could be conserved for taxpayers and other entities subsidizing this program and better applied to fund projects that can achieve emission reductions and energy savings. Given EPA's enforcement authority, self-certification by reporters is sufficient. EPA has the enforcement tools to assure that GHG emission reports are complete, accurate, and meet the reporting requirements of the proposed rule. Large emitting facilities are accustomed to self-certifying (e.g., through the Title V permitting program) the accuracy and consistency of its environmental data.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Edward N. Saccoccia
Commenter Affiliation: Praxair Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0977.1
Comment Excerpt Number: 26

Comment: Praxair supports self certification with EPA verification to ensure the completeness and quality of data reported to the program. We encourage EPA to avoid considering "third party" verification in the future. "Centralized verification" by EPA appears to be the best and least costly approach.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Linda Farrington
Commenter Affiliation: Eli Lilly and Company (Lilly)
Document Control Number: EPA-HQ-OAR-2008-0508-0680.1
Comment Excerpt Number: 3

Comment: In the proposed mandatory reporting rule, the EPA requires self-certification of GHG emission data with EPA verification. Lilly concurs with this position and believes it to be more appropriate and cost effective than third-party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Michael G. Cashin
Commenter Affiliation: Minnesota Power
Document Control Number: EPA-HQ-OAR-2008-0508-1139.1
Comment Excerpt Number: 4

Comment: There have been various proposals to require third party verification for greenhouse gas emission reporting. MP notes that the utility sector has had good experience using Continuous Emission Monitoring Systems (CEMS) for required Acid Rain Program reporting and compliance demonstration, with well established Quality Assurance and Quality Control program requirements. In many cases, carbon dioxide emissions are already being monitored by CEMS as part of requirements for determining emissions per million Btus heat input. Consequently, MP strongly suggests that EPA determine that no further verification of emissions be required in cases where greenhouse gas emissions are being reported under the QA/QC requirements established by EPA for compliance reporting. It is a waste of resource to require 3rd party certification of compliance reporting that EPA already reviews and has subject to penalties for violation of regulations.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Steven M. Pirner
Commenter Affiliation: South Dakota Department of Environment and Natural Resources (SD DENR)
Document Control Number: EPA-HQ-OAR-2008-0508-0576
Comment Excerpt Number: 12

Comment: EPA is proposing self-certification with EPA verification, which is Option 3, because it ensures that data reported under this Proposed Rule is consistent, accurate, and complete. EPA is seeking comments on requiring third-party verification for suppliers of petroleum products, many of whom currently report to EPA under the Office of Transportation and Air Quality's fuel program. SD DENR does not recommend a third-party verification since EPA has already proposed an option that provides consistent, accurate, and complete data.

Response: See the preamble for the response on the emissions verification approach.

Commenter Name: Lawrence W. Kavanagh
Commenter Affiliation: American Iron and Steel Institute
Document Control Number: EPA-HQ-OAR-2008-0508-0695.1
Comment Excerpt Number: 36

Comment: AISI and ACCCI support EPA's decision to allow for self-verification of GHG emissions reporting. Third-party verification would add an unnecessary level of cost without providing a correspondingly increased level of certainty. Besides, third parties have no more access to data than facility personnel, and there is sufficient incentive and enforcement leverage for facilities to file reports that are documented and verifiable by EPA. Moreover, it would be illogical to impose a requirement to refine and verify data using third parties when the rule is intended to capture only 85% of national emissions and exempts facilities emitting less than 25,000 metric tons/year. As is the case for TRI reports, acceptance of engineering estimates by employees of the facility, documented by recordkeeping and subject to review by the agency, is sufficient for the GHG reporting program. In addition, we believe EPA's concern with their ability to verify reports would be greatly alleviated under the more simplified iron and steel sector methodology we propose.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 35

Comment: EPA will need to ensure that contractors and/or third party verifiers are free from conflict of interest (COI) bias. The preamble and RIA identify the need to adopt a COI program for the third party verification approach, but conclude that COI is not a significant issue for the

EPA verification approach because of the far more limited level of verification. As detailed above, we believe that the proposed EPA verification approach is inadequate to ensure complete and accurate emission reports. A credible EPA verification program will almost certainly include the extensive use of contractors and will therefore require an effective COI program. Existing third party verification programs include clear guidance for assessing and avoiding COI between third party verifiers and reporters. While these programs appear to be operating effectively, we believe that a more efficient and effective approach would be for EPA to randomly assign verifiers to each reporting entity from a pool of qualified contractors. Verifiers would be paid based on standard contract terms or directly by EPA through a surcharge on reporting facilities. This approach would deal directly and effectively with the potential for COI and would minimize the need for site-specific determinations of COI.

Response: The commenter's statement that EPA "conclude[d] COI is not a significant issue for the EPA verification approach because of the far more limited level of verification." is incorrect. EPA plans to implement a vigorous verification program that will ensure the same level of accuracy, transparency, consistency, and credibility achieved by programs that use third party verification. A third party verification approach would require EPA to develop emissions verification protocols, a system to quality and accredit third party verifiers, and a system to ensure the verifier does not have a conflict of interest with each reporter for which they verify data. With more than 10,000 reporters, EPA concluded that this would require considerable resources and would be difficult to administer. In contrast, EPA verification will require on-site auditing of only a fraction of the total reporters and require far fewer independent contractors to complete. For additional information, see Section II.N of the preamble for the responses to comments on the emissions verification approach.

Commenter Name: Thomas Diamond
Commenter Affiliation: Semiconductor Industry Association (SIA)
Document Control Number: EPA-HQ-OAR-2008-0508-0498.1
Comment Excerpt Number: 33

Comment: On page 16476, EPA has requested public comment on possible options for verification of GHG Emissions Reports. EPA identified three alternative approaches to verification: (1) self-certification without independent verification, (2) self-certification with third-party verification, and (3) self-certification with EPA verification. The SIA's position is that the third-party verification approach places unnecessary, additional costs on facilities: (1) Reporters would need to hire and pay verifiers, at a significant exposure to each reporting facility, (2) reporters would incur costs to assemble and provide the verifiers detailed supporting data for the emission estimates, (3) the delay associated with the proposed and final EPA regulations associated with third-party verification and the subsequent EPA qualification of third-party verifiers would extend the initial reporting period beyond the EPA proposed date of March 31, 2011 for the calendar year 2010. Report verification should be based on the EPA's current position and the final adoption of Option 3 identified as "self-certification with EPA verification."

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Rhea Hale
Commenter Affiliation: American Forest & Paper Association (AF&PA)
Document Control Number: EPA-HQ-OAR-2008-0508-0909.1
Comment Excerpt Number: 30

Comment: We agree with the proposed rule that third party verification should not be required under the EPA Reporting Rule. Reporting under mandatory programs, like that practiced under traditional environmental regulations, is subject to government review and enforcement and does not require (expensive) third party audits. Companies should be allowed to attest to the veracity of their data as they do in other state and federal environmental programs and be subject to state authorized audits of such information. U.S. manufacturers have a long history of providing truthful emissions and other environmental data to regulatory authorities under penalty of law. This approach is effective, has a proven record, and should be applied to this situation as well. The need for third party verification should be market-driven, not mandated by government.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 29

Comment: Marathon supports option 1 "self-certification without independent verification" and opposes options 2 and 3. Self-certification under the Clean Air Act is subject to civil and criminal penalties and has been used for years in many other complicated reporting programs. Due to EPA's authority to make section 114 requests as it feels appropriate, Marathon does not sec the need for any third party verification. Marathon strongly supports no required third party verification due to the large expense that can be incurred. The methods for emission calculation provided in the rule are very prescriptive for sources and source categories, which isn't necessarily the case in other programs (TRI), for which EPA does not require verification. Therefore, additional verification is not needed. Also, by requiring verification, there is a likelihood that long delays in making the data publically available or ready for use in policy decisions could result. Additionally, by not requiring EPA verification upon submittal of the final report, many reporting requirements currently required (calibration and maintenance on equipment, carbon content samples, etc.) would not have to be submitted. This would greatly reduce burden. Instead. EPA could verify individual submissions through compliance inspections, where needed information would be made available to EPA. This would reduce the burden on regulated facilities and EPA.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Karen St. John
Commenter Affiliation: BP America Inc. (BP)
Document Control Number: EPA-HQ-OAR-2008-0508-0631.1
Comment Excerpt Number: 20

Comment: BP supports self certification of GHG emissions data without independent verification for facilities and suppliers. EPA's TRI program does not require third party verification. Should EPA want to conduct a verification or compliance inspection, records should be maintained at the facility/company.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Fiji George
Commenter Affiliation: El Paso Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0398.1
Comment Excerpt Number: 19

Comment: El Paso supports EPA's verification approach of self-certification of emissions reports. This approach is consistent with existing Federal, State and County programs across the U.S. Each of these programs has well-established methods for ensuring completeness and quality of the data. Self-certification of emission inventories for the source categories of Oil and Natural Gas Systems and Suppliers of Natural Gas and Natural Gas Liquids is not only appropriate but historically shown to be successful. In fact, internal certification of emission reports is a proven system under which El Paso and other owner/operators of similar facilities have been reporting emissions of criteria and hazardous air pollutants for decades. Regulatory agencies, whether Federal, State or County, have developed expertise and a knowledge base to effectively manage data on emissions of criteria and hazardous air pollutants from facilities of all sizes in airsheds across the country. Self certification has historically been successful, is generally accepted by the public, industry and agencies, is a solid choice, and should be carried through to the final version of this rule. In El Paso's experience, the use of self certification with third-party verification (Alternative 2 as identified in the preamble) has yielded little benefit with tremendous cost burden to the reporting entity. El Paso has third-party verified and reported two nation-wide GHG inventories: One reported under DOE 1605b for 2006, and the other to CCAR for 2007. Third-party verification of the 2007 emissions yielded a difference of approximately 1% between pre and post verified numbers at a cost of over $100,000 per year. And over 90% of this difference had been identified as a result of El Paso's own internal audit process and not due to the efforts of the independent third party verifier. Therefore, our experience has shown that setting up appropriate internal controls would achieve the same results as mandating third-party verification. Also, our experience is that including inconsequential emissions in reporting programs substantially increases costs with little or no improvement in accuracy or reliability of emission estimates.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Edgar O. Morris
Commenter Affiliation: Mosaic Fertilizer Company LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0687.1
Comment Excerpt Number: 17

Comment: EPA is proposing a program of self-certification with EPA verification. See 74 Fed. Reg. at 16,476 - 16,477. Mosaic supports this approach, as it is less burdensome than government or third-party certification and should be equally reliable.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Patrick J. Nugent
Commenter Affiliation: Texas Pipeline Association (TPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0460.1
Comment Excerpt Number: 16

Comment: TPA supports the proposal for self-certification with EPA verification. Third-party verification would be slow and expensive. It would also create a risk of inconsistent results, as one third-party verifier might apply a different approach or use different standards than would another third-party verifier. EPA verification has been used with success in other EPA program areas and there is no reason to vary from that method in this context.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 5
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0480.1
Comment Excerpt Number: 8

Comment: EPA correctly decided to propose self-certification of emissions reports with EPA verification, rather than third-party verification. This system has served EPA well in the context of the Acid Rain Program and other emissions reporting programs. Self-certification would also minimize the risk of inconsistency and conflicts of interest in the verification process.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Lauren E. Freeman
Commenter Affiliation: Hunton & Williams LLP
Document Control Number: EPA-HQ-OAR-2008-0508-0493.1
Comment Excerpt Number: 13

Comment: As described in the preamble, EPA proposes to rely on a combination of self-certification and EPA verification to ensure the completeness and quality of data submitted under the program. 74. Fed. Reg. at 16,477. UARG supports the self-certification requirement and would object to any provision requiring third party verification of reports. EPA and Congress have relied upon self-certification in the ARP and Title V Operating Permit programs. Under these programs, sources have established programs, including in many cases periodic self-auditing, to meet requirements for "reasonable inquiry." Requiring third party verification on top of these existing requirements would be burdensome and unnecessary. UARG takes no position

on whether EPA should, for purposes of this reporting rule, allow sources the option of third party verification, as long as it is not required. UARG also notes that any DR that wishes to use third party verification to further support their self-certification, e.g., as a form of self-audit, is free to do so. EPA also proposes in § 98.3(f) to specifically state that the Agency may use "additional information," including "any other credible evidence" to verify the completeness and accuracy of reported GHG emissions. UARG finds this section unnecessary and confusing. To the extent the rule specifies a particular methodology for estimating GHG emissions for purposes of this reporting program, the report is complete and accurate as long as that methodology is used properly and all of the required information is reported. Although EPA is clearly authorized to use its investigative powers to confirm that the methodology was used properly, the Agency does not need a provision in this rule to accomplish that. Such statements are more appropriately left to the preamble. If, on the other hand, EPA is suggesting that it could use some other methodology to calculate emissions, and then question the completeness or accuracy of data from a properly used methodology, UARG objects. UARG similarly objects to any suggestion that EPA could use this proposed provision to require recording and reporting of information not otherwise identified in the recordkeeping and reporting provisions of the rule.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. The rule allows facilities to establish their own procedures for quality assuring and certify their reports, including any self auditing or third party reviews they feel appropriate. With respect to the comment on the enforcement proviions, see Section VI.A for a discussion of EPA's approach to enforcement and a list of actions or inactions that could be considered violations. For responses to comments on the general content of the annual report, recordkeeping requirements, and enforcement, see the preamble and separate comment response documents on those topics. In general, if the GHG emissions report is submitted on time, is accurate, methods specified in the rule have been used to determine GHG emissions, all information required to be reported by the rule is included in the report, and the facility also keeps required records of the information needed to determine emissions, then the facility would be in compliance.

Commenter Name: Jeffry C. Muffat
Commenter Affiliation: 3M Company
Document Control Number: EPA-HQ-OAR-2008-0508-0793.1
Comment Excerpt Number: 8

Comment: 3M agrees with EPA's proposed approach of requiring self-certification of GHG emissions. As such, it is unnecessary to impose costly third-party verification on facilities.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Kathy G. Beckett
Commenter Affiliation: West Virginia Chamber of Commerce
Document Control Number: EPA-HQ-OAR-2008-0508-0956.1
Comment Excerpt Number: 12

Comment: As described in the preamble, EPA proposes to rely on a combination of self certification and EPA verification to ensure the completeness and quality of data submitted under

the program. 74. Fed. Reg. at 16477. The Chamber supports the self-certification requirement and would object to any provision requiring third part verification of reports. EPA and Congress have relied upon self-certification in the ARP and Title V Operating Permit programs. EPA also proposes in § 98.3(f) to specifically state that the Agency may use "additional information," including "any other credible evidence" to verify the completeness and accuracy of reported GHG emissions. To the extent the rule specifies a particular methodology for estimating GHG emissions for purposes of this reporting program, the report is complete and accurate as long as that methodology is used properly and all of the required information is reported. Although EPA is clearly authorized to use its investigative powers to confirm that the methodology was used properly, the Agency does not need a provision in this rule to accomplish that.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Donald R. Schregardus
Commenter Affiliation: Department of the Navy, Department of Defense (DoD)
Document Control Number: EPA-HQ-OAR-2008-0508-0381.1
Comment Excerpt Number: 12

Comment: The rule requires that emissions reported be verified to ensure their accuracy and completeness and proposes self-certification with EPA verification to accomplish this objective. DoD agrees with this proposal. Preamble Section IV.J.1. states that “to ensure the completeness and quality of data reported to the program, the Agency proposes self-certification with EPA verification. Under this approach, all reporters subject to this rule would certify that the information they submit to EPA is truthful, accurate and complete. EPA would then review the emissions data and supporting data submitted by reporters to verify that the GHG emission reports are complete, accurate, and meet the reporting requirements of this rule.” DoD agrees with EPA’s assessment that self-certification with EPA verification appropriately balances the need to ensure accurate data without placing undue burden for little environmental benefit on those subject to the rule by requiring 3rd party verification. As indicated in the preamble and “Memorandum: Review of Verification Systems in Environmental Reporting Programs,” EPA is successfully using this approach in a number of other emission reporting programs including the Acid Rain Program, New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. In the Operating Permit Program, EPA also requires self-certification by a responsible official as to the truth, accuracy, and completeness of all information submitted. Unlike these CAA programs that set emissions limits or specific operational constraints on sources, the purpose of the GHG reporting rule is informational and the data will not be used to determine compliance with any emission regulation. Under these conditions, there is no need for 3rd party verification. We recommend that EPA finalize the proposal to select self-certification with EPA verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: [name not given]
Commenter Affiliation: Graphic Arts Coalition (GAC)
Document Control Number: EPA-HQ-OAR-2008-0508-0701.1
Comment Excerpt Number: 12

Comment: The GAC does support the Proposed Rule's self-certification approach to verification. It is unnecessary to require third-party verification under this rule as it is data gathering rule and not being used to enforce any regulation or standard. Thus, it is unwarranted to impose this additional cost and burden on facilities under this rulemaking.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Marc J. Meteyer
Commenter Affiliation: Compressed Gas Association (CGA)
Document Control Number: EPA-HQ-OAR-2008-0508-0981.1
Comment Excerpt Number: 11

Comment: EPA has proposed company/facility self certification with EPA verification to ensure the completeness and quality of data reported to the program. The CGA fully supports this approach and believes it will provide a more effective, thorough, and consistent method by using a "centralized verifier" rather than using the "third party" verification approach. This approach is consistent with most EPA regulatory programs and will reduce some of the cost burdens for GHG reporters and the overall cost for verification due to economies of scale. It also allows EPA to avoid costs associated with the development of verification protocols, establishing a system to qualify and accredit the third-party verifiers, and conducting ongoing oversight and auditing of verifications to ensure that third party verifications are conducted in a consistent and high quality manner. The CGA encourages EPA to avoid considering "third party" verification for this mandatory reporting program in the future. For the reasons stated above and further elaborated by EPA in the preamble, "centralized verification" by EPA appears to be the best and least costly approach.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 6
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0530.1
Comment Excerpt Number: 11

Comment: EPA correctly proposed self-certification of emissions reports with EPA verification, rather than third-party verification. EPA has successfully used self-certification in the context of the Acid Rain Program and other emissions reporting programs. Self-certification also would minimize the risk of inconsistency and conflicts of interest in the verification process.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Juanita M. Bursley
Commenter Affiliation: GrafTech International Holdings Inc. Company (GrafTech)
Document Control Number: EPA-HQ-OAR-2008-0508-0686.1
Comment Excerpt Number: 9

Comment: GrafTech believes the EPA correctly addressed the verification requirements by proposing self-certification with EPA verification. Mandating independent third-party verification would have imposed a tremendous cost burden on facilities that already will incur significant costs in meeting their recordkeeping and reporting obligations under the proposed rule. However, much of the data required to be reported is excessive and not required for EPA to verify the data; for example, requiring a facility with a large number of fuel combustion units, which opts to simplify its GHG emission calculations by aggregating units into group(s), using the Tier 1 or Tier 2 Methods, and taking measurements of fuel consumption from the billing meter on the common supply piping, to also report to EPA the identification and input heat rating of each aggregated unit included in this simple calculation. This is unnecessarily burdensome on the facility when this information is not specifically needed for EPA to verify the data. GrafTech requests that EPA eliminate such overly burdensome recordkeeping and reporting requirements from the Final Rule, when it cannot reasonably demonstrate that it needs this level of detail to either verify submitted data or that will be needed for future GHG legislation.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. For the response to the comment on the reporting requirements for stationary fuel combustion units, see Section III.C of the preamble. In general, the rule requires reporters to submit information that is needed to verify the reported GHG emissions. In response to comments, EPA has reviewed the data elements required to be reported for specific source categories under the individual subparts in 40 CFR part 98. See the preamble for the individual source categories and the comment response documents on subparts C through PP for responses to comments regarding the specific data that must be reported for each source category.

Commenter Name: Robert Rouse
Commenter Affiliation: The Dow Chemical Company
Document Control Number: EPA-HQ-OAR-2008-0508-0533.1
Comment Excerpt Number: 9

Comment: Dow agrees with the provisions in the proposed rule regarding self-certification, EPA verification, and no third party verification. As this rule is not being used for regulatory enforcement, both of these approaches are practical, given the intent of the rule. Dow suggests that EPA's mission of verification can be accomplished by a review of records by EPA or State regulatory agencies. In general, instead of submitting detailed information (such as fuel carbon content measurements) and requiring detailed reporting, facilities should be required to maintain this data and produce it upon request. EPA's proposed reporting requirements are unnecessarily burdensome, far beyond what is required for future policy decisions.

Response: The final rule retains self-certification with EPA verification. EPA continues to require reporting of the data needed for emissions verification. See the preamble for the response on the emissions verification approach. Also see the preamble and the comment response document for Subpart A: Content of the Annual Report and Recordkeeping for responses on general reporting requirements and recordkeeping.

Commenter Name: John Piotrowski
Commenter Affiliation: Packaging Corporation of America (PCA)
Document Control Number: EPA-HQ-OAR-2008-0508-1029.1
Comment Excerpt Number: 9

Comment: We agree with EPA that third party verification should not be a requirement of the Rule. Certification based on reasonable inquiry of the truthfulness of the data submission subject to the penalty of law, has been the practice for some time; we see no compelling reason to alter or add to the current practice.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Steven J. Rowlan
Commenter Affiliation: Nucor Corporation (Nucor)
Document Control Number: EPA-HQ-OAR-2008-0508-0605.1
Comment Excerpt Number: 15

Comment: Nucor is opposed to the suggestion by certain NGOs that third-party verification be required as a means of creating jobs. If money is to be spent on jobs, it should be spent on jobs that encourage technological and scientific innovation, not creative accounting as those suggestions suggest. Opening the field to third party verification encourages the creation of "boutiques" that specialize in how to game the system—both from the industry side and then the NGO side to respond to the industry side—resulting in a loss of resources for productive uses. Also, the recent episodes in the financial industry show the danger of encouraging specialization in reporting and derivatives and similar devices. The problems in that industry arose in part from governmental encouragement of creative accounting. EPA should decline the invitation to create a similar situation in GHG reporting and regulation.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Robert N. Steinwurtzel
Commenter Affiliation: Bingham McCutchen LLP on behalf of Association of Battery Recyclers (ABR)
Document Control Number: EPA-HQ-OAR-2008-0508-0660.1
Comment Excerpt Number: 14

Comment: The Proposed Rule at §98.4 requires that a designated representative of each facility certify the accuracy of GHG emissions reports. 74 Fed. Reg. at 16,615. On pages 16,476-16,477 of the Proposed Rule, EPA discusses the verification of reported and self-certified GHG emissions under the rule. Id. at 16,476-16,477 Options for data verification considered include: (1) no verification, (2) verification by an independent third party, and (3) verification by EPA. To ensure completeness and quality of the data reported under the rule, EPA is proposing self-certification with verification by EPA. Id. The ABR generally supports self-certification with

verification by EPA as a means to provide a consistent verification approach similar to other EPA emissions reporting programs and without additional cost and burden to reporters.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Scott Davis
Commenter Affiliation: Arizona Public Service (APS)
Document Control Number: EPA-HQ-OAR-2008-0508-0639.1
Comment Excerpt Number: 3

Comment: In the preamble EPA states that, "GHG emissions reported under this rule would be verified to ensure accuracy and completeness so that EPA and the public could be confident in using the data for developing climate policies and potential future regulations. To ensure the completeness and quality of the data reported to the program, the Agency proposes self-certification with EPA verification." APS agrees with this proposal and believes that EPA's approach is the most cost effective and is most consistent with other reporting requirements under the Clean Air Act. The Regulatory Impact Analysis (RIA) shows that if EPA was to require third party verification it would have an impact of approximately $58 million on the private sector. In contrast, EPA's proposed self-certification approach with EPA verification would reduce the cost impact on the regulated sectors to $1.5 million. Certainly this option is a much more cost effective approach and is consistent with other successful reporting mechanisms, such as the Acid Rain Program and the Toxic Release Inventory Program.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Alexander D. Menotti
Commenter Affiliation: Kelley Drye & Warren et. al LLP on behalf of the Steel Manufacturers Association (SMA) and Specialty Steel Industry of North America (SSINA)
Document Control Number: EPA-HQ-OAR-2008-0508-0656.1
Comment Excerpt Number: 7

Comment: SMA/SSINA agree with EPA that third party verification is unnecessary and overly burdensome on reporting facilities. Most, if not all, existing EPA CAA data collection and reporting rules rely upon owner/operator certifications. These programs (e.g., CAA Title V requirements) are more than adequate to ensure consistent reporting and accurate data and should be sufficient for this rule as well.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Meg Voorhes
Commenter Affiliation: Social Investment Forum
Document Control Number: EPA-HQ-OAR-2008-0508-0657.1
Comment Excerpt Number: 9

Comment: We find the proposed verification requirement to be reasonable and appropriate in its attempt to ensure strong data quality. As investors, we seek high quality data, but also desire to reduce reporting burdens if possible. We agree that, at this time, it is not absolutely necessary for data from reporting sources to be third-party certified, and that self-certification may suffice, with verification provided by EPA.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Paul L. Carpinone
Commenter Affiliation: Tampa Electric Company (TECO)
Document Control Number: EPA-HQ-OAR-2008-0508-0717.1
Comment Excerpt Number: 5

Comment: Tampa Electric supports EPA's decision not to make third party verification mandatory.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Ted Michaels
Commenter Affiliation: Energy Recovery Council (ERC)
Document Control Number: EPA-HQ-OAR-2008-0508-0544.1
Comment Excerpt Number: 8

Comment: Third-Party Verification is Unnecessary in a Mandatory Reporting Program and Should Not be Required in the Federal Program ERC does not support a requirement for third-party verification of mandatory GHG emissions reporting and agrees with the EPA's decision to rely on Agency verification of emissions reports. There is no precedent for third-party verification in any federal environmental statute under which we operate. The solid waste management sector is subject to numerous reporting requirements under federal statutory programs including The Resource Conservation and Recovery Act, Clean Air Act, Emergency Planning and Community Right-to-Know Act, Spill Containment and Countermeasures Program, the Clean Water Act and Superfund to name a few. None of these programs requires third-party verification of reporting, and many do not require self-certification. All, however, include enforcement provisions, which create significant disincentives for faulty or false reporting. As noted in our comments above on enforcement, this proposal incorporates stringent enforcement mechanisms designed to promote accurate reporting and penalize violators. In fact, the proposed enforcement provisions in the rule language are overly stringent and should be amended and clarified. The Proposed "Certificate of Representation" Requirement Is Unnecessary and Can Easily Be Deleted or Replaced Without Compromising the Effectiveness of the Rule. The proposed GHG reporting rule requires that the designated representative provide to EPA a "certificate of representation" before filing the GHG emissions report. Id. at 16,615 (proposed 40 C.F.R. 98.4(b)-(d), (i). The preamble to the proposed rule presents no rationale for this "layer" of certification, and no rationale is obvious from ERC member's general knowledge of a other certification regimes, such as Title V's requirement that a "responsible official" sign compliance certifications. See, e.g., 40 C.F.R. 70.5(d), 71.5(d) (requiring certification of "truth, accuracy, and completeness" by a "responsible official," but not requiring the responsible official to prove

his/her "bona fides" as in the proposed GHG reporting rule). Accordingly, ERC requests that the certificate of representation requirement be eliminated from the GHG reporting rule. Alternatively, ERC requests that those individuals who are "responsible officials" for purposes of Title V be deemed to satisfy the requirements of the designated representative under the new rule. The Certificate of Representation Also Presents Timing Problems that Can be Remedied by its Deletion The proposed GHG reporting rule provides that a company cannot file its GHG emissions report until EPA has received a "complete" certificate of representation. Proposed 40 C.F.R. 98.4(d). This presents two key issues. First, EPA apparently sets up a system in which two filings are necessary --first, the certificate of representation, and second, the emissions report. Given our comment above that the certificate of representation is not necessary, this two step filing process also seems unnecessary. Second, there is the obvious timing issue that arises from the requirement that the certificate of representation be "complete." "Completeness" is a term of art that ERC member have substantial experience with under the Title V program where, for example, the application shield only attaches after the state permitting authority has determined that an application is "complete." 40 C.F.R. 70.5(a)(2), 71.5(a)(2) ("The source's ability to operate without a permit . . . shall be in effect from the date the application is determined or deemed to be complete . . . ."). In the proposed GHG reporting rule, by contrast, there are no time frames under which EPA must determine whether a certificate of representation is complete or when it would be deemed complete, so the reporting facility will not know when it will be able to file its emissions report. This will cause needless confusion (and enforcement exposure to companies), and is yet another reason to eliminate the certificate of representation requirement. The Certification Language Statement Should Incorporate Title V's Well Established "Reasonable Inquiry" Standard The proposed certification language of 98.4(e)(1)5 is much more prescriptive than similar language in Title V (40 C.F.R. 70.5(d), 70.6(d)). The ERC submits that the prescriptiveness is unnecessary, and that the Title V language is more appropriate here. Most importantly, the proposed GHG reporting rule certification language does not incorporate the critical Title V requirement of "reasonable inquiry." The Agency should note that the preamble does incorporate that concept when it states "[o]n behalf of the owner or operator, the Designated Representative would certify under penalty of law that the report has been prepared in accordance with the requirements of 40 CFR Part 98, and that the information contained in the report is true and accurate, based on a reasonable inquiry of individuals responsible for obtaining the information." 74 Fed. Reg. 16,448, 16,463 (Apr. 10, 2009)(emphasis added). We infer that EPA wishes to incorporate "reasonable inquiry" into the certification of compliance, and request that the language of the certification be revised to read, "This certification and any other certification required under this part shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete." Alternatively, the following modification of the proposed certification statement would reach a similar end: "I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all of its attachments. Based on my reasonable inquiry of those individuals with primary responsibility for obtaining the information, I certify [etc.]"

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. Also see the preamble responses on the designated representative provisions and the comment response document for Subpart A: Designated representative for discussion and responses on the designated representative and the certificate of representation provisions.

Commenter Name: Scott Evans
Commenter Affiliation: CleanAir Engineering (Clean Air)
Document Control Number: EPA-HQ-OAR-2008-0508-0696.1
Comment Excerpt Number: 7

Comment: We support EPA in not requiring third-party verification for GHG reporting under this rule. Many critics of this approach will cite the requirements of ISO 14064 and other GHG reporting protocols that require third-party verification. However, it must be remembered that the ISO standards were developed to ensure a high level of data reliability throughout the world. In countries without a well-developed regulatory infrastructure, third-party verification is probably essential to ensure high data reliability. However, in the United States, the EPA has a well tested and proven system for collecting large quantities of highly reliable data. The Clean Air Markets Division has successfully demonstrated this over a period of more than a decade through the Acid Rain program. It is important to note that Clean Air Engineering is currently seeking ANSI accreditation to become a third party verifier. We are doing this for our clients involved in reporting to other organizations that require this such as the Chicago Climate Exchange and The Climate Registry. However, in spite of this fact, we believe third-party verification simply adds cost to the GHG reporting process with very little added environmental benefit. While the Europeans require third-party verification in their EU-ETS scheme, it is important to note that they rely much more heavily on indirect, parametric measurements than does EPA under this proposed rule. Indeed, the use of CEMS is discouraged under the EU-ETS program. Many of the largest sources subject to reporting in the U.S. will have CEMS installed. This approach allows for much easier verification than the does the European model. Some commenters will undoubtedly state that EPA already requires third-party verification of Acid Rain data through the use of Relative Accuracy Test Audits (RATAs). However, these commenters fail to recognize that RATAs are not required to be conducted by third parties. In fact, many electric utilities conduct their own RATAs. While a source is free to contract with a third party for RATA services, it is not required. This would also be the case under the proposed Reporting Rule for GHG monitoring. Affected sources would be free to contract third-parties to verify their GHG data. If this option is chosen, we suggest that EPA provide a field in the reporting scheme for a source to identify this. Another criticism heard regarding the EPA approach is the data collected under a “no third-party verification” program will somehow not be comparable to data collected from other countries that do require third-party verification. This claim rests on the assumption that data collected under the EPA approach will be less reliable. We believe that EPA’s successful operation of a large scale emission trading program provides ample evidence that this is not the case. We believe the data reported from the proposed GHG reporting program (assuming the QA/QC requirements are strengthened as suggested in these comments) will provide data of equal or higher reliability to any other program in the world.

Response: EPA agrees with the commenter that experience with the ARP has demonstrated tthat self certification with EPA verification can be an affected approach to assuring high quality data. The final rule retains self-certification with EPA verification. For additional information, see the preamble for the full response on the emissions verification approach.

Commenter Name: Kevin Wanttaja
Commenter Affiliation: Salt River Project Agricultural Improvement and Power District (SRP)
Document Control Number: EPA-HQ-OAR-2008-0508-0623.1
Comment Excerpt Number: 1

Comment: Within the preamble to the proposed rule, EPA specifically requested comment on whether the verification approach selected by EPA is appropriate for each source category or whether an alternative approach should be adopted. EPA is proposing Option 3, self-certification with EPA verification, as the preferred approach to verification of reported data. SRP concurs with EPA's approach to verification. As mentioned, self-certification with EPA verification is consistent with other EPA programs and would result in a consistent verification approach applied to all submitted data. SRP also agrees with EPA that Option 3 has lower costs to reporters and would avoid delays in data availability associated with a third-party verification process.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Dean C. DeLorey
Commenter Affiliation: Beet Sugar Development Foundation (BSDF) Environmental Committee
Document Control Number: EPA-HQ-OAR-2008-0508-0559.1
Comment Excerpt Number: 9

Comment: We agree with self-certification and EPA verification for GHG inventory reporting as long as procedures are clear and appropriate. Third party verification will be an unnecessary burden to GHG sources and should not be contemplated. This will add another layer of bureaucracy that is not of sufficient value to be warranted.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Kyle Pitsor
Commenter Affiliation: National Electrical Manufacturers Association (NEMA) Magnet Wire Section
Document Control Number: EPA-HQ-OAR-2008-0508-0622.1
Comment Excerpt Number: 3

Comment: The NEMA Magnet Wire EHS Committee believes the EPA correctly addressed the verification requirements by proposing self-certification with EPA verification. Mandating independent third-party verification would have imposed a tremendous cost burden on facilities that already will incur significant costs in meeting their recordkeeping and reporting obligations under the proposed rule.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Lorraine Krupa Gershman
Commenter Affiliation: American Chemistry Council (ACC)
Document Control Number: EPA-HQ-OAR-2008-0508-0423.2
Comment Excerpt Number: 9

Comment: We strongly support EPA's proposed approach of requiring self-certification of GHG emissions. At this time, this proposed rule is creating an inventory of GHG emissions, and is not being used for regulatory enforcement. As such, it is unnecessary to impose costly third-party verification on facilities. (Initial cost estimates for facilities requiring third-party verification under California's rule range from $5,000/audit for a simple facility to upwards of $40,000/audit for a complex facility such as a refinery.)

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: John H. Skinner
Commenter Affiliation: Solid Waste Association of North America (SWANA)
Document Control Number: EPA-HQ-OAR-2008-0508-0659.1
Comment Excerpt Number: 4

Comment: We support the proposal to allow self certification with EPA verification of reporting data (Option 3). This approach provides reliable data management that is consistent with EPA's long-established approach to existing air quality reporting requirements. This approach offers efficient data collection and reporting that can be easily coordinated with existing reporting requirements at many of the facilities affected by this rule. Self certification with 3rd Party verification (Option 2) creates unnecessary burden on the regulated community and is inconsistent with other EPA programs. Furthermore, it is unnecessary for the vast majority of facilities that will never be involved in a carbon trading program.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Kelly R. Carmichael
Commenter Affiliation: NiSource
Document Control Number: EPA-HQ-OAR-2008-0508-1080.2
Comment Excerpt Number: 7

Comment: As described in the preamble, EPA proposes to rely on a combination of self certification and EPA verification to ensure the completeness and quality of data submitted under the program. NiSource supports the self-certification requirement and would oppose any provision requiring third part verification of reports. EPA has relied upon self-certification in the Acid Rain Program and the Title V Operating Permit programs. Under these programs, sources have established programs to meet requirements for "reasonable inquiry." Requiring third party verification on top of these existing requirements would be burdensome and unnecessary. NiSource supports EPA's decision not to require third-party verification of the electric generating sector's GHG emissions reporting. Since the Clean Air Act Amendments of 1990, we have reported high quality quarterly CO_2, NOx, and SO_2 emissions data to EPA. The majority of the emissions data is captured using continuous emissions monitoring systems (CEMS) that are highly accurate and utilized for compliance with existing cap and trade programs. In addition, for electric generating facilities that are not required to have CEMS, fuel use data is accurately metered and heat content is routinely measured, producing high quality data and emissions calculations. As EPA has been collecting, verifying, and utilizing this data for nearly two

decades, NiSource does not believe these data require third-party verification nor would it provide any additional benefit.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Andrew C. Lawrence
Commenter Affiliation: Department of Energy (DOE)
Document Control Number: EPA-HQ-OAR-2008-0508-0612.1
Comment Excerpt Number: 4

Comment: DOE agrees with EPA's proposed requirement that emissions reported be verified to ensure their accuracy and completeness and proposes self-certification with EPA verification. DOE agrees that self-certification with EPA verification appropriately balances the need to ensure accurate data without placing undue burden for little environmental benefit on those subject to the rule by requiring third party verification. Although DOE supports third party verification, it recommends that the current proposal be finalized to select self-certification with EPA verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Randall R. LaBauve
Commenter Affiliation: Florida Power & Light (FPL) Group
Document Control Number: EPA-HQ-OAR-2008-0508-0624.1
Comment Excerpt Number: 6

Comment: Overall, FPL Group supports gathering accurate emissions data, with the minimum administrative burden, to ensure an accurate accounting of each sector's emissions, as well as to serve as the foundation for any sector-based allowance allocation under a future national cap-and-trade system. FPL Group strongly supports EPA's decision not to require third-party verification of the electric generating sector's GHG emissions reporting. Since the Clean Air Act Amendments of 1990, the electric generating sector has reported high quality quarterly SO2, NOx and CO_2 emissions data to EPA. The majority of the emissions data is captured using continuous emissions monitoring systems (CEMS) that are highly accurate and utilized for compliance with existing cap and trade programs. In addition, for electric generating facilities that are not required to have CEMS, fitel use data is accurately metered and heat content is routinely measured, producing high quality data and emissions calculations. As EPA has been collecting, verifying, and utilizing this data for nearly two decades, FPL Group does not believe these data require third-party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Nicole McIntosh
Commenter Affiliation: Consumers Energy
Document Control Number: EPA-HQ-OAR-2008-0508-0584.1
Comment Excerpt Number: 6

Comment: Comment has also been solicited with regard to the verification approach taken by the EPA in this proposed reporting rule. The EPA has proposed that the reporter self-certify the data and that they will, in turn; perform the QA/QC of the reports. This option is currently utilized in the Acid Rain Program and other reporting and regulatory programs developed under the Clean Air Act. This model has been effective for the certification of emissions data in the industry for over 15 years. We would encourage the EPA to continue this approach with regard to this new proposed reporting requirement and not seek out third party verification as it places undue financial and time burden on reporters.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Mark R. Vickery
Commenter Affiliation: Texas Commission on Environmental Quality (TCEQ)
Document Control Number: EPA-HQ-OAR-2008-0508-0666.2
Comment Excerpt Number: 5

Comment: EPA solicits input on the best approach to verification of GHG emissions reports. The Executive Director of the TCEQ generally concurs that the approach selected by EPA requiring self-certification by sources with EPA verification is the appropriate option. The 3rd party verification of reports option will add additional costs to both reporting sources for hiring such verifiers, and to EPA/delegated states for certification of these verifiers; and is inconsistent with other EPA programs.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Michael A. Palazzolo
Commenter Affiliation: Alcoa, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0650.1
Comment Excerpt Number: 2

Comment: We support the decision for EPA validation and auditing of annual facility reports. This is consistent with other EPA air emissions inventory requirements and is preferable to requiring annual third party verification of all US facilities emitting more than 25,000 metric tons per year. As a founding member of The Climate Registry, Alcoa is learning first hand that the cost of third-party verification for every facility is substantial and appears to add little to data quality. Considerable time is required for third-party verifiers to familiarize themselves with the facility, and few errors are found in GHG emission calculations because they are relatively simple and straightforward.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Larry R. Soward
Commenter Affiliation: Texas Commission on Environmental Quality (TCEQ)
Document Control Number: EPA-HQ-OAR-2008-0508-0619
Comment Excerpt Number: 12

Comment: Self certification with EPA verification is appropriate and reasonable.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Benjamin Brandes
Commenter Affiliation: National Mining Association (NMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0466.1
Comment Excerpt Number: 15

Comment: EPA describes in the preamble to the proposed reporting rule that it will rely on a combination of self reporting and EPA verification of data submitted under the reporting program. 74 Fed. Reg. 16,477. NMA supports self-certification and opposes any requirement requiring third party verification of data submitted by reporting entities. EPA and Congress have relied upon self-certification in other programs, such as the Acid Rain Program and Title V Operating Permit Program. NMA believes that requiring third party verification of reporting would be unnecessary and burdensome. As is discussed in other sections of this proposal, NMA anticipates that EPA will potentially receive factually accurate, yet inconsistent data under the tenets of this proposal. NMA requests that EPA clarify verification procedures to ensure that reporting entities are not inappropriately audited or penalized due to perceived errors arising from appropriately reported data.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Skiles W. Boyd
Commenter Affiliation: DTE Energy
Document Control Number: EPA-HQ-OAR-2008-0508-0606.1
Comment Excerpt Number: 14

Comment: Self Certification of Emissions DTE Energy supports EPA's proposal for self certification along with EPA verification rather than third party verification. This cost effective approach has been used successfully for over ten years of reporting emissions under a cap and trade program under the Clean Air Act's Acid Rain provisions. There is no added value to a third party verification that introduces unnecessary steps and potential inconsistencies into the verification process.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Thomas M. Ward
Commenter Affiliation: Novelis Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0561.1
Comment Excerpt Number: 14

Comment: Novelis supports the proposed provision for facilities to self-certify emissions reporting. Self-certification has been a proven and effective means of addressing and enforcing reporting requirements such as under Title III, section 313 of the Superfund Amendments and Reauthorization Act (SARA) for reporting of toxic air emissions. That program has been effective and considered a workable database for air toxic emissions since the mid-1980's. In our view the additional cost of third party certification of emission reports would add major cost increases and timelines to the reporting process that would not be commensurate with the benefits obtained. In addition, there is a high probability that many industrial sectors would not have an adequate number of properly trained and available third party certifiers available. For industrial facilities unable to obtain adequately trained third party certifiers, resulting GHG reporting data could be very problematic and potentially less accurate than as proposed through self certification mechanisms.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Paul Glader
Commenter Affiliation: Hecla Mining Company
Document Control Number: EPA-HQ-OAR-2008-0508-0579.1
Comment Excerpt Number: 9

Comment: EPA describes that the proposed reporting rule that it will rely on a combination of self reporting and EPA verification of data submitted under the reporting program. 74 Fed. Reg. 16477.Hecla supports self-certification and opposes any requirement requiring third party verification of data submitted by reporting entities because requiring third party verification of reporting would be unnecessary and burdensome.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Chris Korleski
Commenter Affiliation: State of Ohio Environmental Protection Agency
Document Control Number: EPA-HQ-OAR-2008-0508-0598.1
Comment Excerpt Number: 12

Comment: The majority of Ohio EPA's involvement with GHG reporting and verification has been directed at encouraging companies in Ohio to voluntarily report GHG emissions through The Climate Registry, a North American registry that collects high-level, consistent GHG data and makes the information available to the public. Ohio is a member of The Climate Registry and supports the organization's mission. As a member of The Climate Registry we feel third-party verification is the best way to ensure that the data The Climate Registry collects is clear of any material misstatements. This procedure follows the World Resources Institute (WRI) internationally recognized GHG Reporting Protocol. Furthermore, The Climate Registry would

have to dedicate a large amount of resources to internally verify every emissions report, increasing the cost of annual reporting fees and unduly burden on The Climate Registry staff. On the other hand, in the case of the proposed U.S. EPA mandatory GHG reporting rule, Ohio EPA believes third-party verification should not be required. U.S. EPA is conducting an internal verification of GHG emissions data submitted to the agency and many stakeholders are not in favor of third-party verification because of the cost to hire a third-party verifier and ensemble the data needed for a third-party audit. We also believe it is important for US EPA to have a consistent method for verifying GHG emissions reports without developing a third-party verification protocol. We encourage U.S. EPA to develop a rigorous internal verification system so that reported GHG emissions are reviewed at a level necessary to ensure completeness and accuracy. We also ask, in the future, U.S. EPA to be open to third-party verification in the event carbon offsets become part of any future climate change regulations.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Sarah E. Amick
Commenter Affiliation: The Rubber Manufacturers Association (RMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0647.1
Comment Excerpt Number: 9

Comment: The NPRM proposes an approach that would allow self-certification of the data reported with EPA verification. RMA supports EPA's decision to propose self-certification with EPA verification (Option 3) for certification and verification because it will ensure that the data reported is accurate, consistent and impartial. (74 Fed. Reg. at 16477). We do not support third party verification of the data because it would increase the cost and burden of complying with the rule and would create inconsistency in the verification approach. As indicated in the preamble to the proposal, self-certification is consistent with other EPA programs, most notably the Title V air permit program and the Toxic Release Inventory program. In view of the nature of those programs compared to GHG emissions reporting, a more rigorous verification requirement for GHG emissions reporting does not seem to be warranted.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Claire Olson
Commenter Affiliation: Basin Electric Power Cooperative
Document Control Number: EPA-HQ-OAR-2008-0508-0637.1
Comment Excerpt Number: 11

Comment: EPA "proposes self-certification with EPA verification." Basin Electric supports the provisions in the proposed rule that allows facilities to self-certify their emissions reports with EPA review. The electric industry has been reporting to government entities for many years under a variety of DOE and EPA programs, including the emissions reporting under the Clean Air Act. Even though all this data is self-certified, it is broadly viewed as accurate, reliable, and credible, and is used by a variety of users for many purposes. Self-certification would require signing the reported emissions as truthful, accurate and complete with accepted EPA methodology and quality assurance criteria. Records, data collection, and calculation documents

would be required on a retention schedule in case EPA chose to check or monitor the facility efforts. Requiring third party verification is not necessary and would impose an additional burden on facilities in the form of additional costs and staff time with little to no additional benefit. The certification statement provided in §98.4(e) makes explicitly clear that "there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment." This is a strong incentive to file complete, accurate information.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Ryan K. Miltner
Commenter Affiliation: Miltner Law Firm, LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0508.1
Comment Excerpt Number: 11

Comment: DPNM supports the balance struck by EPA in adopting self-certification of reported emissions subject to EPA verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Alison A. Keane
Commenter Affiliation: National Paint & Coatings Association, Inc. (NPCA/FSCT)
Document Control Number: EPA-HQ-OAR-2008-0508-0593.1
Comment Excerpt Number: 11

Comment: NPCA does support the Proposed Rule’s self-certification approach to verification. It is unnecessary to require third-party verification under this rule since it is data gathering rule and not being used to enforce any regulation or standard. Thus, it is unwarranted to impose third -part verification requirements which will increase costs and burden on facilities under this rulemaking.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: J. Michael Kennedy
Commenter Affiliation: Florida Electric Power Coordinating Group
Document Control Number: EPA-HQ-OAR-2008-0508-0473.1
Comment Excerpt Number: 10

Comment: As described in the preamble, EPA proposes to rely on a combination of self-certification and EPA verification to ensure the completeness and quality of data submitted under the program. FCG supports the self-certification requirement and would oppose a provision requiring third-party verification of reports. EPA and Congress have relied upon self-certification in the ARP and Title V Operating Permit programs. Under these programs, sources have established programs, including in many cases periodic self-auditing, to meet requirements for

"reasonable inquiry." Requiring third party verification on top of these existing requirements would be burdensome and unnecessary. FCG notes that any DR that wishes to use third party verification to further support his/her certification, e.g., as a form of self-audit, is free to do so.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Mary J. Doyle
Commenter Affiliation: BG North America, LLC (BG)
Document Control Number: EPA-HQ-OAR-2008-0508-0714.1
Comment Excerpt Number: 10

Comment: BG supports self-certification with EPA verification. As EPA points out, this method is consistent with many of the current reporting programs including ARP reporting for election generation units. Having a requirement for 3rd party verification would add considerable cost and not provide commensurate benefits.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Mark Schwarz
Commenter Affiliation: Board of Environmental, Health & Safety Auditor Certifications (BEAC)
Document Control Number: EPA-HQ-OAR-2008-0508-0560.1
Comment Excerpt Number: 2

Comment: In considering third party verification of greenhouse gas emissions, there has been concern expressed as whether a sufficient number of qualified professionals are available to perform these verifications; BEAC notes that this could be a concern whether the verification was performed by internal or external reviewers. Our parent organizations, The IIA and AR, shared this concern many years ago, recognizing the environmental, health & safety auditing field as a specialty, with professional obligations to the profession and the public at large. They had the foresight to create BEAC as an independent certifying entity of EH&S auditors, both internal and third party. BEAC grants and oversees the Certified Professional Environmental Auditor (CPEA) designation to those meeting rigorous qualification requirements for work experience, formal training, and audit experience, and including passing an examination. Furthermore, the creation of BEAC – over a decade ago – recognized that individuals providing these services must meet high standards, commit to a code of ethics and rigorous practices, continue their professional development and education, and be subject to review. While BEAC understands that the regulated community may object to comprehensive mandatory verifications, we believe that laws, regulations, and policies governing reporting, trading, or reductions should include provisions for independent auditing and verification by certified professionals as good governance. While laws and regulations need not specify mandatory practices or certifying entities, they should instruct the EPA to acknowledge these practices, and to include significant incentives for companies to adopt the full range of good governance practices.

Response: The final rule retains self-certification with EPA verification. As demonstrated by the ARP, self certification of reports promotes good governance practices by companies. As

recommended by the commenter, EPA's verification program will include comprehensive QA/QC procedures combined with onsite auditing by trained professionals. For additional information on EPA's verification program, see the preamble for the full response on the emissions verification approach.

Commenter Name: David A. Buff
Commenter Affiliation: Florida Sugar Industry (FSI)
Document Control Number: EPA-HQ-OAR-2008-0508-0500.1
Comment Excerpt Number: 10

Comment: The FSI supports the proposed provision for facilities to self-certify emissions reporting, and for EPA to perform the verification. The TRI reporting program allows for self-certification and this program has provided a proven and effective method for reporting toxic air emissions. On the other hand, requiring a third party certification of emission reports would significantly increase the costs of compliance and would extend the time needed for the preparation of emissions reports. These additional costs and delays would not produce any corresponding environmental benefits. Most of the facilities that will be subject to the proposed GHG reporting program are already subject to the Title V operating permit program and already have an identified "responsible official".

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Melinda L. Tomaino
Commenter Affiliation: Associated General Contractors of America (AGC)
Document Control Number: EPA-HQ-OAR-2008-0508-0628.1
Comment Excerpt Number: 10

Comment: AGC supports EPA's proposed approach to verification. No third-party verification would be required for reported data. EPA would assume the responsibility to verify such information; however each facility would retain copies of all reports for five years for historical and verification purposes. As part of this record-retention requirement, the facility owner or operator might be required to retain a written quality assurance performance plan. AGC supports this approach. Third-party verification would drive up the costs of compliance. AGC agrees that self-certification, in keeping with EPA's quality assurance guidelines, is the preferred option.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. Also, see the preamble for responses regarding the length of records retention and the requirements for a written monitoring plan.

Commenter Name: William W. Grygar II
Commenter Affiliation: Anadarko Petroleum Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0459.1
Comment Excerpt Number: 9

Comment: EPA verification is favorable to a third-party verification requirement. Anadarko supports EPA's decision to allow operators to self-certify their GHG emissions report rather than

requiring third-party verification. We agree with EPA that self-certified emission reports, subject to EPA verification, will result in sufficient accuracy and quality assurance. Self-certified data is currently acceptable under 40 CFR Part 70 (Title V reporting), and is subject to enforcement provisions in the Clean Air Act as amended ("CAA"), so there is no need to require third-party verification for information that will be used to develop national climate change policy. EPA has robust enforcement powers under the CAA, including significant daily penalties and other civil and criminal sanctions. Voluntary programs such as the California Climate Action Registry and The Climate Registry require third-party verification because the lack the enforcement power provided to the EPA.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Dan F. Hunter
Commenter Affiliation: ConocoPhillips Company
Document Control Number: EPA-HQ-OAR-2008-0508-0515.1
Comment Excerpt Number: 12

Comment: ConocoPhillips supports EPA decision to not require third party verification. At this time, self certification with EPA review will provide the necessary level of data quality assurance. We view this decision as an example of regulation appropriate for the current stage of U. S. climate policy development. The verification requirements should be re-evaluated following the passing of future climate change legislation.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 1
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0440.1
Comment Excerpt Number: 21

Comment: Self certification by facility operators with EPA verification, as EPA proposed (74 Fed. Reg. 16463), is the appropriate verification method.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 11
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0425.1
Comment Excerpt Number: 21

Comment: CLA supports EPA's rationale for proposing a verification option that allows for self certification of reports by affected facilities and verification provided by the EPA. We believe it is premature for EPA to establish a third party verification system for an emissions reporting program. The costs borne by the affected facilities will already be significant new costs. Any

effort to add third party verification will needlessly further exacerbate the costs incurred by producers and US taxpayers.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 11
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0395.1
Comment Excerpt Number: 15

Comment: TCFA supports EPA's rationale for proposing a verification option that allows for self-certification of reports by affected facilities and verification provided by the EPA. We believe it is premature for EPA to establish a third party verification system for an emissions reporting program. The costs borne by the affected facilities will already be significant new costs. Any effort to layer-on third party verification will further exacerbate the costs incurred by producers and U.S. taxpayers.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Steven D. Meyers
Commenter Affiliation: General Electric Company (GE)
Document Control Number: EPA-HQ-OAR-2008-0508-0532.1
Comment Excerpt Number: 16

Comment: GE agrees with EPA's proposal that a Designated Representative should perform a self-certification of data submitted to the Mandatory Program at the facility level. The EPA and state agencies have accepted self-certification for other mandatory data submittal programs under the Clean Air Act and should accept self-certification for this program. Such an approach will meet the data quality and certification needs of the Mandatory Program in a cost effective and non-burdensome manner. Moreover, mandatory independent verification of data submitted to the Mandatory Program would be highly burdensome and result in significant data submittal delays. The Mandatory Program may include thousands of reporting entities and tens of thousands of reporting facilities. If environmental consulting firm assistance were required to perform an average of one-person week verifying the inventory for each of 1,000 relatively simple reporting entities, approximately 20 person-years of services would be needed by the reporting entities in a relatively short period of time (independent verification would likely be limited to primarily the 2nd quarter each year). This number could go up significantly for many larger and more complex reporting entities. Note that the independent verification that GE did for its 2004 GHG inventory required more than 15 person-weeks of services. The need to perform a high volume of mandatory independent verifications in a short period of time will likely result in high costs to the reporting entities and will likely result in reporting delays as reporting entities wait for verification firm availability.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Traylor Champion
Commenter Affiliation: Georgia-Pacific, LLC (GP)
Document Control Number: EPA-HQ-OAR-2008-0508-0380.1
Comment Excerpt Number: 11

Comment: GP agrees with EPA's approach of self-certification with EPA verification. As EPA states, self-certification with EPA verification is successfully used in several other mandatory emissions reporting programs. Third-party verification would increase the cost of compliance to reporters and would not add to the accuracy and completeness of the emissions reports.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Willie R. Taylor
Commenter Affiliation: U.S. Department of the Interior
Document Control Number: EPA-HQ-OAR-2008-0508-0474.1
Comment Excerpt Number: 15

Comment: The MMS supports option 3. The MMS would like to work closely with EPA in implementing a verification program as they have had considerable experience with collecting emission inventories for offshore oil and gas facilities in the Gulf of Mexico. The procedures should be consistent with the approach MMS uses for calculating emissions of the criteria pollutants in the Gulf. For a detailed account of the quality assurance, quality control, and methods of estimating emissions please see the report entitled Year 2005 Gulfwide Emission Inventory Study, MMS Study 2007-067, U.S. Department of the Interior, Minerals Management Service, Gulf of Mexico OCS Region, New Orleans, December 2007. The complete report may be downloaded at http://www.gomr.mms.gov/homepg/regulate/environ/airquality/goads.html.

Response: EPA thanks the Department of the Interior for their input and welcomes their continued assistance as we consider comments and other data for the oil and natural gas systems source category and develop outreach materials for the final rule.

Commenter Name: See Table 7
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0412.1
Comment Excerpt Number: 15

Comment: Self-certification with EPA verification should be distinguished from EPA enforcement. GPA supports EPA's proposal not to require third-party verification of the reported emissions data.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. Also see the preamble and the comment reponse document of compliance and enforcement for responses to comments on enforcement.

Commenter Name: Bob Dinneen
Commenter Affiliation: Renewable Fuels Association (RFA)
Document Control Number: EPA-HQ-OAR-2008-0508-0494.1
Comment Excerpt Number: 15

Comment: RFA supports self-certification with verification by EPA, rather than a third-party.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Niki Wuestenberg
Commenter Affiliation: Republic Services, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0557.1
Comment Excerpt Number: 14

Comment: Republic also supports EPA's decision not to require third party verification. Source certification and EPA verification have worked well under numerous other environmental programs and should work well for GHG emission reporting as well. EPA verification provides uniformity of verification procedures and source certification provides EPA with the assurance, enforceable under penalty of law, that sources are providing true and accurate calculations to the best of their knowledge. As compared to EPA verification, third party verification of the calculations would only add greater cost without significantly improving the quality of the information received and therefore should not be required.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Robert J. Martineau, Jr
Commenter Affiliation: Counsel, Waller Lansden Dortch & Davis, LLP
Document Control Number: EPA-HQ-OAR-2008-0508-0414.1
Comment Excerpt Number: 12

Comment: The proposed rule would implement a verification program through self-certification and EPA verification. 74 Fed. Reg. at 16,476. In the proposal, EPA sets forth an option for third party verification. A number of environmental groups and others have also urged EPA to consider third party verification in this rule. See e.g., 'EPA Climate Registry Critics Seek Third Party Verification Cost Study," Inside EPA (April 9, 2009). Nissan agrees with EPA that its proposed option for verification is more than sufficient for purposes of this rule and urges EPA to reject commenters' suggestions to revise this portion of the rule to require third party verification. First, the cost of this program already will be significant for a rule that achieves no actual reductions itself but is merely a reporting rule. For the purposes of this rule there is no demonstrated benefit to third party verification; it merely imposes additional costs. Moreover, as EPA itself notes, this kind of verification has been successful in a number of other rules and there is no reason to require otherwise here. Third party verification would also require another elaborate mechanism to certify approved verifiers and thus create a market crunch for the initial certifications that will further add to the cost to facilities that must report. There is nothing to suggest that requiring third party verification will lead to a substantially improved reporting system. If companies have the resources and in-house expertise to prepare the reports and verify

the information, they should not have to go to the extra expense of third party verification. If a facility does not have the resources or expertise to prepare the reports, then it can choose to seek assistance from a third party in preparing its reports.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: John M. Batt
Commenter Affiliation: Airgas, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0408.1
Comment Excerpt Number: 12

Comment: EPA has proposed company/facility self-certification with EPA verification to ensure the completeness and quality of data reported to the program. Airgas fully supports a self-certification, with or without EPA verification, rather than using the "third party" verification approach. This approach is consistent with most EPA regulatory programs and will reduce some of the cost burdens for GHG reporters and the overall cost for verification due to economies of scale. It also allows EPA to avoid costs associated with the development of verification protocols, establishing a system to qualify and accredit the third-party verifiers, and conducting ongoing oversight and auditing of verifications to ensure that third party verifications are conducted in a consistent and high quality manner.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Angela Burckhalter
Commenter Affiliation: Oklahoma Independent Petroleum Association (OIPA)
Document Control Number: EPA-HQ-OAR-2008-0508-0386.1
Comment Excerpt Number: 17

Comment: EPA also requests comments on requiring a third party to verify report. This will be extremely costly for reporters and provide no additional benefit as to the accuracy, completeness, or consistency of the data. EPA proposes that reporters will self certify and EPA will verify the information reported. We think this is a reasonable approach and removes unnecessary costly burdens on reporting entities.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Lyle Nelson
Commenter Affiliation: WEST Associates
Document Control Number: EPA-HQ-OAR-2008-0508-0228o
Comment Excerpt Number: 2

Comment: WEST Associates believes that the electric generating unit subject to acid rain, the Acid Rain Program, adhere to very strict reporting requirements that fully satisfy requirements for accurate and verified carbon dioxide emissions reporting. Therefore, third party verification

for electrical utilities data is simply unnecessary. The national Acid Rain Program is broadly recognized as providing accurate, measurable and enforceable reductions in acid rain precursors with use of continuous emission monitoring systems that are certified and audited by EPA pursuant to 40 CFR, 575. As you know, acid rain systems monitor carbon dioxide emissions and monitor fuel use or heat input to easily report nitrous oxide and methane emissions for electric utility facilities using emission factors. Prior to submittal to EPA, data reported pursuant to the Acid Rain Program is subject to significant quality assurance by a designated representative who is subject to penalty under law for submittal of a false statement. Submittals are auditable by EPA. Detailed third party data verification may have a place for greenhouse gas reporting by sources other than electric utilities, where calculation methodologies are far less robust than continuous emission systems reported data. Third party verification for electric generating units is an unnecessary financial burden to ratepayers without commensurate environmental benefits.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Glenn Hamer
Commenter Affiliation: Arizona Chamber of Commerce and Industry
Document Control Number: EPA-HQ-OAR-2008-0508-0564.1
Comment Excerpt Number: 6

Comment: The Arizona Chamber's position is that the third-party verification approach places unnecessary, additional costs on facilities: (1) Reporters would need to hire and pay verifiers, at a significant exposure to each reporting facility, (2) reporters would incur costs to assemble and provide the verifiers detailed supporting data for the emission estimates, (3) the delay associated with the proposed and final EPA regulations associated with third-party verification and the subsequent EPA qualification of third-party verifiers would extend the initial reporting period beyond the EPA proposed date of March 31, 2011 for the calendar year 2010. Proposed Solution: The Arizona Chamber supports the EPA's current position and the final adoption of Option 3 identified as "self-certification with EPA verification."

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Kerry Kelly
Commenter Affiliation: Waste Management (WM)
Document Control Number: EPA-HQ-OAR-2008-0508-0376.1
Comment Excerpt Number: 29

Comment: Waste Management does not support a requirement for third-party verification of mandatory GHG emissions reporting and agrees with the EPA's decision to rely on Agency verification of emissions reports. There is: no precedent for third-party verification in any federal environmental statute under which we operate. The solid waste management sector is subject to numerous reporting requirements under federal statutory programs including The Resource Conservation and Recovery Act, Clean Air Act, Emergency Planning and Community Right-to-Know Act, Spill Containment and Countermeasures Program, the Clean Water Act and Superfund to name a few. None of these programs requires third-party verification of reporting, and many do not require self-certification. All, however, include enforcement provisions, which

create significant disincentives for faulty or false reporting. As noted in our comments above on enforcement, this proposal incorporates stringent enforcement mechanisms designed to promote accurate reporting and penalize violators. In fact, the proposed enforcement provisions in the rule language are overly stringent and should be amended and clarified. Further, our experience with third-party verification under the CCX and CCAR voluntary reporting programs, suggests that any requirement for third party verification in a federal mandatory reporting program will add significant and unnecessary costs to the regulation for reporters and may cause substantial delays to full implementation of the program.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Nancy N. Young
Commenter Affiliation: Air Transport Association of America, Inc. (ATA)
Document Control Number: EPA-HQ-OAR-2008-0508-0522.1
Comment Excerpt Number: 20

Comment: ATA supports a reporting approach using self-certification and verification by EPA, rather than complicating and confusing the massive reporting program with a third-party verification requirement. EPA is successfully using self-certification in conjunction with EPA verification in numerous other existing emissions reporting programs under the CAA that produce accurate, complete, and consistent reported data. Furthermore, requiring reporting entities to hire third-party verifiers will impose additional, unnecessary costs on those entities and potentially interfere with timely reporting by them. Third-party verification would also require the establishment of an accreditation and approval program for third-party verifiers. Even with a verifier accreditation and approval process, there would be an inherent risk of inconsistent verifications, given that verification responsibilities would be spread amongst numerous verifiers. Given the scope of the reporting scheme and the potential diversity of verifiers, the quality and thoroughness of verifications would be inconsistent at best, and extensive EPA audit and enforcement oversight resources would be necessary to ensure uniformity. The Agency would also need to develop and administer a process to ensure that verifiers hired by the reporting entities do not have conflicts of interest. Such a program could require EPA to review numerous individual conflict of interest screening determinations made each time a reporter hires a third-party verifier. In contrast, EPA verification would avoid the burdens and administrative complications introduced by third-party verification and better ensure the timely reporting and use of reported data. In sum, ATA submits that self-certification with EPA verification is preferable to third-party verification because it is consistent with other EPA programs, imposes lesser cost and resource burdens on reporting entities, would avoid delays in implementing a reporting program and would result in a more consistent verification approach applied to all submitted data.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Karen S. Price
Commenter Affiliation: West Virginia Manufacturers Association (WVMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0475.1
Comment Excerpt Number: 3

Comment: The proposed rule provides that EPA will verify the submitted GHG emissions reports, as opposed to third-party verification. The WVMA is supportive of this proposal and recommends that the final rule retain this approach. The use of third-parties to verify GHG emissions would be extremely costly and time consuming for the reporters, and would require additional time for the reports to ultimately reach the Agency. To maintain consistency with other reporting program requirements, such as the TRI, verification by third-parties should not be required. Furthermore, third-party verification would create potential inconsistencies in the data submitted and would result in additional costs to EPA to verify and audit reports. For all of these reasons, the WVMA is supportive of EPA verification of the emission reports.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Steven M. Maruszewski
Commenter Affiliation: Pennsylvania State University (Penn State)
Document Control Number: EPA-HQ-OAR-2008-0508-0409.1
Comment Excerpt Number: 2

Comment: EPA proposes self-certification and EPA verification. Penn State agrees that this approach is the most appropriate. It is consistent with other reporting under the Clean Air Act and comes at a significantly lower reporting cost than third party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Erik Bakken
Commenter Affiliation: Tucson Electric Power Company
Document Control Number: EPA-HQ-OAR-2008-0508-0489.1
Comment Excerpt Number: 2

Comment: TEP supports EPA's approach relating to verification of emission reports for EGUs and we would oppose a requirement for third-party verification of reports for EGUs. EPA is correct to retain responsibility for verification of reporting data for EGUs. As mentioned above, EPA and industry stakeholders have collaborated over the years to develop extensive data validation and quality assurance / quality control procedures relating to collection and reporting of Continuous Emissions Monitoring (CEM) data. Due to the high level of confidence in the quality of EGU reported emissions data, the SO2 allowance market has operated seamlessly since its inception. TEP is a founding member of The Climate Registry (TCR). We are currently compiling our first annual report (of 2008 emission data), and we will hire a third-party verifier, as required by TCR, to verify our emissions report. Since the vast majority of our emissions result from EGUs with CEMs, we do not anticipate any material change to our initial report, yet we will incur the verification costs. While TEP agreed to third-party verification when we signed on to TCR, it's important to keep in mind that TCR is a voluntary program for companies to estimate their overall carbon footprint. TCR does not lend itself to reporting under a federal GHG mitigation program, which needs to be based on facility level reporting, and the costs incurred for third-party verification would be unnecessary under such a federal program.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Michael W. Stroben
Commenter Affiliation: Duke Energy Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0407.1
Comment Excerpt Number: 4

Comment: Duke Energy strongly supports EPA's proposal to rely on a combination of self certification and EPA verification to ensure the completeness and quality of data submitted under the program, and would object to any provision requiring third party verification of reports. As EPA points out in the proposal, the Agency has successfully relied upon self-certification in many regulatory programs, including the Acid Rain and Title V Operating Permit programs. Under these programs, sources have established programs, including in many cases periodic self-auditing, to meet requirements for "reasonable inquiry." Requiring third party verification on top of these existing requirements would be burdensome, costly and unnecessary.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Barbara A. Walz
Commenter Affiliation: Tri-State Generation and Transmission Association, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0495.1
Comment Excerpt Number: 1

Comment: Tri-State supports the provision in §98.4(e) that allows reporters to self-certify their emissions submissions with EPA review. Tri-State strongly discourages any provision that would require third-party verification. At the public hearings in Arlington and Sacramento, a number of commenters argued that third-party verification is needed to ensure the accuracy and credibility of the reporting. Tri-State disagrees. The electric industry has been reporting data to the government for many years under a variety of Department of Energy and EPA programs, including emissions reporting under the Clean Air Act. This data is self-certified, accurate, reliable, credible, and is used by a variety of users for many purposes. The certification statement provided in §98.4(e) makes explicitly clear that "there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment." This is strong incentive to file complete and accurate information. Further, requiring third-party verification would impose an additional burden on reporters as additional cost and staff time, with no additional benefit.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Greg Scott
Commenter Affiliation: National Petrochemical & Refiners Association
Document Control Number: EPA-HQ-OAR-2008-0508-0212w
Comment Excerpt Number: 7

Comment: Third-party verification. NPRA members agree with EPA that third-party verification is not necessary. These verifications are costly, labor intensive, and may prove difficult to complete within the necessary time limits for the thousands of data submitters.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Scott Evans
Commenter Affiliation: Clean Air Engineering
Document Control Number: EPA-HQ-OAR-2008-0508-0228e
Comment Excerpt Number: 2

Comment: I support EPA's position not to include third party verification. Someone who has done this kind of work, it is -- say that a structure like that may be necessary in a country that has a less developed regulatory structure than the United States has. And given the fact that this comes from an ISO standard which is supposed to be applied around the world, there certainly may be instances in some places where third party verification is required. However, in the United States we have a very well developed regulatory structure. We have 15 years of experience working with a trading system for pollutants that does not involve third party verification. And from all appearances it looks like we are getting very good, accurate and precise measurements without the necessary expense. And it is a very large expense and burden to put another layer of bureaucracy on top of all the other bureaucracies that we need to do a carbon trading program.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Carol E. Whitman
Commenter Affiliation: National Rural Electric Cooperative Association (NRECA)
Document Control Number: EPA-HQ-OAR-2008-0508-0483.1
Comment Excerpt Number: 1

Comment: We support the provision in §98.4(e) that allows reporters to self-certify their emissions submissions with EPA review, and strongly discourage any provision that requires third-party verification. At the public hearings in Arlington and Sacramento, a number of commenters argued that third-party verification is needed to ensure the accuracy and credibility of the reporting. We disagree. Self-certification would require affirming that the reported emissions are truthful, accurate, and complete within accepted EPA methodology and quality assurance criteria. Records, data collection, and calculation documents would be required to be kept in accordance with a mandatory retention schedule to ensure that EPA personnel can check or monitor any facility’s reporting efforts. Requiring third-party verification is not necessary and would impose an additional burden on facilities in the form of additional costs with little benefit. The electric industry has been reporting to the government for many years under a variety of Department of Energy (DOE) and EPA programs, including the emissions reporting under the Clean Air Act (CAA). Even though all this data is self-certified, it is broadly accepted as accurate, reliable, and credible, and is used by a variety of users for many purposes including determination of compliance with the existing cap-and-trade program under the CAA Title IV Acid Rain Program (ARP). The certification statement provided in §98.4(e) makes explicitly

clear that "there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment." This is strong incentive to file complete, accurate information. Further, requiring third-party verification would impose an additional burden on reporters in the form of additional cost and staff time for the third-party verification of the results, with no additional benefit. This additional burden could be a particular problem for smaller reporters, including some of our members, who may not be exempt.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Jerry Call
Commenter Affiliation: American Foundry Society (AFS)
Document Control Number: EPA-HQ-OAR-2008-0508-0356.2
Comment Excerpt Number: 16

Comment: AFS agrees with EPA's proposed approach to verification through self-certification which is consistent with other CAA programs (including Title V certifications, verification of emission reduction credits, etc.). At present, no CAA programs require third party verification which would add substantial burdens and costs to the program.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Robert P. Strieter
Commenter Affiliation: The Aluminum Association
Document Control Number: EPA-HQ–OAR-2008-0508-0350.1
Comment Excerpt Number: 8

Comment: The Aluminum Association supports the proposed provision for facilities to self-certify emissions reporting. Self certification has been a proven and effective means of addressing and enforcing reporting requirements such as under Title III, section 313 of the Superfund Amendments and Reauthorization Act (SARA) for reporting of toxic air emissions. That program has been effective and considered a workable database for air toxic emissions since the mid 1980's. In our view the additional cost of third party certification of emission reports would add major cost increases and timelines to the reporting process that would not be commensurate with the benefits obtained.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Kevin Wanttaja
Commenter Affiliation: The Salt River Project, WEST (Western Energy Supply Transmission) Associates
Document Control Number: EPA-HQ-OAR-2008-0508-0343.1
Comment Excerpt Number: 5

Comment: Existing monitoring and reporting requirements for EGUs provide sufficient safeguards to ensure accurate and verified carbon dioxide emissions reporting. The existing Acid Rain Program has robust guidelines to ensure that the data collected is accurate and valid. Before a monitoring system is used, the EPA must certify the Continuous Emissions Monitoring System (CEMS). To obtain certification, the owner or operator of a unit must conduct certification tests and submit the results to the EPA and the appropriate state agency. EPA will then issue a notice approving or disapproving the request for certification. If the proposed system is disapproved, the owner or operator must revise the equipment, procedures, or methods as necessary and resubmit a request for certification. Once a monitoring system is certified, the emissions data are then reported for every hour that an affected unit is operating. If the monitoring system is not operating or fails a required quality assurance tests, data from an approved backup monitor or from a backup reference method monitoring system is to be reported instead. If no backup monitor or backup system is available, substitute data must be inserted for any hour when the primary monitoring system is not operating as required. In terms of quality assurance, the existing Acid Rain reporting program has provisions that ensure high quality data is obtained and reported for the trading program. The operator must perform periodic performance evaluations of the equipment, including daily calibration error tests, daily interference tests for flow monitors, and semi-annual (or annual) relative accuracy test audits and bias tests. The owner or operator must develop and implement a written quality assurance/quality control plan for each system. The quality control plan must include complete, step-by-step procedures and operations for calibration checks, calibration adjustments, preventive maintenance, audits, and record-keeping and reporting. The quality assurance plan must include procedures for conducting periodic performance tests. The EGU must make available to the EPA the results of its quality assurance tests as part of its reporting requirements. Additionally, the EPA recently implemented the Emissions Collection and Monitoring Plan System that requires all Acid Rain data files to undergo additional, rigorous quality control checks before they are submitted to the agency. Then, once the data is received, EPA applies rigorous quality control tests of its own to reported quarterly data. When data is submitted to EPA, a Designated Representative for the covered source must attest to its accuracy. The Clean Air Act provides for stiff penalties for submitting false or inaccurate data. Given the robust data reports provided by Acid Rain CEMs, detailed third-party data verification for electric generating units would be an unnecessary financial burden without commensurate environmental benefits. The record of the existing program clearly indicates that it is capable of providing the high quality data needed to serve as the basis for a national cap-and-trade. Proponents of other reporting schemes must first make the case that it is not capable of meeting the needs for a GHG cap and trade program, and they are unable to do so.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Kevin L. Shafer
Commenter Affiliation: Milwaukee Metropolitan Sewerage District (MMSD)
Document Control Number: EPA-HQ-OAR-2008-0508-0536.1
Comment Excerpt Number: 1

Comment: MMSD supports the determination by EPA that third party verification is not required for the reporting of GHG emissions. This approach is consistent with the Clean Water Act reporting methods, as well as current methods of reporting required under state and federal air permit requirements. There is no good policy reason to require third party verification for

GHG emissions; to require this would significantly increase the cost of this monitoring and reporting effort, with no gain in air quality. We assume that regulated entities will exercise the same good faith and respect for legal requirements in reporting GHG emissions as they do when reporting water discharges and other types of air emissions. The fact that some sources may disregard the law, or make mistakes, does not warrant a third party verification requirement.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Michael Bradley
Commenter Affiliation: The Clean Energy Group (CEG)
Document Control Number: EPA-HQ-OAR-2008-0508-0479.1
Comment Excerpt Number: 6

Comment: Overall, the Clean Energy Group supports gathering accurate emissions data, with the minimum administrative burden, to ensure an accurate accounting of each sector's emissions, as well as to serve as the foundation for any sector-based allowance allocation under a future national cap-and-trade system. The Clean Energy Group supports EPA's decision not to require third-party verification of the electric generating sector's greenhouse gas emissions reporting. Since the Clean Air Act Amendments of 1990, the electric generation sector has reported high quality quarterly CO2, NOx, and S02 emissions data to EPA. The majority of the emissions data is captured using continuous emissions monitoring systems (CEMS) that are highly accurate and utilized for compliance with existing cap-and-trade programs, such as the Acid Rain Program. In addition, for electric generating facilities that are not required to have CEMS, fuel use data is accurately metered and heat content is routinely measured, producing high quality data and emissions calculations. As EPA has been collecting, verifying, and utilizing this data for nearly two decades, the Clean Energy Group does not believe these data require third-party verification. If greenhouse gas emissions data includes an error or omission, EPA should permit the facility to remedy the error or omission prior to any enforcement action. This would ensure a collaborative approach to obtaining the most accurate data possible. The Clean Energy Group does not take a position on whether third-party verification is appropriate for other sectors with no history of emissions reporting, provided data are equal in quality to those of the electric sector.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Brian Jones
Commenter Affiliation: Clean Energy Group (CEG), M.J. Bradley & Associates, LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0212e
Comment Excerpt Number: 3

Comment: CEG also agrees with the EPA proposal for self-certification with EPA verification, which is similar to other Clean Air Act emission reporting programs. All reporters would certify the information they submit is truthful, accurate, and complete. Facilities that fail to meet the reporting requirements would be subject to enforcement by EPA under the Clean Air Act, which includes administrative, civil, and criminal penalties. Under Sections 114 and 208, EPA has the authority to independently conduct site visits to observe monitoring procedures, review records,

and verify compliance. This approach currently works well for other emissions reporting programs, and CEG believes it is appropriate for GHG emissions reporting as well.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Paul R. Pike
Commenter Affiliation: Ameren Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0487.1
Comment Excerpt Number: 8

Comment: Ameren supports the self-certification requirement and EPA verification to ensure the completeness and quality of data submitted and would object to any provision requiring third part verification of reports. EPA and Congress have relied upon self-certification in the ARP and Title V Operating Permit programs. Under these programs, sources have established programs, including in many cases periodic self-auditing, to meet requirements for "reasonable inquiry." Requiring third party verification on top of these existing requirements would be burdensome and unnecessary. We expect that the final rule will specify a particular methodology for estimating GHG emissions for purposes of reporting, and we believe that the report is complete and accurate as long as that methodology is used properly and all of the required information is reported.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Stephen E. Woock
Commenter Affiliation: Weyerhaeuser Company
Document Control Number: EPA-HQ-OAR-2008-0508-0451.1
Comment Excerpt Number: 8

Comment: EPA’s proposal to have facilities certify their reported information and for EPA to provide verification is the appropriate approach to assure quality, accuracy and completeness of the GHG data and associated information. As EPA notes in the proposed rule preamble, industry generally opposes using third-party verification because of the additional costs, a concern Weyerhaeuser shares. However, we believe third-party verification should be a response reserved to satisfy a market demand for such additional assurances. We also are not supportive of approaches requiring a special and substantially intrusive level of verification for regulatory GHG reporting that differs from the current well-established system for reporting other air program compliance information. Commercial businesses, industry, municipalities and other government facilities, and Federal installations have all operated under a self-certifying approach for some 40 years. Self-certification with EPA and/or state agency verification backed by their enforcement authority has worked well for those 40 years. Self-certification for the GHG reporting program will be consistent and maintains alignment with other EPA compliance reporting programs. We agree that EPA verification, which EPA’s compliance and enforcement arm has long practiced without calling it that per se, will minimize increased cost compared with third-party verification. We recognize EPA is partly distributing the cost of their new verification efforts for this program by proposing to require reporting of somewhat more information than might typically be required for compliance purposes under other Clean Air Act programs.

Weyerhaeuser believes the general level of enhanced information reporting for the annual report at proposed §98.3(c), for stationary combustion sources (Subpart C) at proposed §98.36 and for pulp/paper facilities (Subpart AA) at proposed §98.276, is appropriate to facilitate and automate EPA's verification process. [Footnote: Our general agreement on the enhanced reporting level does not mean Weyerhaeuser agrees with all the methodologies EPA proposed to generate the GHG emissions data and therefore does not mean we agree with all of the specific data/information types proposed to be reported.] This approach should help offset the cost of this program to the taxpayers.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: John L. Wittenborn et al.
Commenter Affiliation: Steel Manufacturers Association (SMA) and Specialty Steel Industry of North America (SSINA)
Document Control Number: EPA-HQ-OAR-2008-0508-0518.1
Comment Excerpt Number: 7

Comment: SMA/SSINA agree with EPA that third party verification is unnecessary and overly burdensome on reporting facilities. Most, if not all, existing EPA CAA data collection and reporting rules rely upon owner/operator certifications. These programs (e.g., CAA Title V requirements) are more than adequate to ensure consistent reporting and accurate data and should be sufficient for this rule as well.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Eric Holdsworth
Commenter Affiliation: Edison Electric Institute
Document Control Number: EPA-HQ-OAR-2008-0508-0212c
Comment Excerpt Number: 3

Comment: We also support EPA's decision not to make third-party verification mandatory and, again, here would circle back to my earlier comment that the utilities, as noted in the Reporting Rule, are already delivering quality data, and, therefore, one would think that would not need to be subject to third-party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 3
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0433.1
Comment Excerpt Number: 7

Comment: Supports the EPA policy of self -certification of facility data. We agree with EPA that a self-certified facility is sufficient without any third party verification for the stated purposes of this reporting rule.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: See Table 2
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0367.1
Comment Excerpt Number: 4

Comment: AXPC supports EPA's decision to allow operators to self certify their GHG emissions report rather than requiring third party verification. Self certified data is currently acceptable for Title V reporting, and is subject to enforcement provisions in the Clean Air Act, so there is no need to require third party verification for information that will be used to develop national climate change policy.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Glenn Hamer
Commenter Affiliation: Arizona Chamber of Commerce and Industry
Document Control Number: EPA-HQ-OAR-2008-0508-0564.1
Comment Excerpt Number: 8

Comment: The Arizona Chamber does not support a requirement for third-party verification of mandatory GHG emissions reporting. There is no precedent for third-party verification in any federal environmental statute. The trucking sector is subject to numerous reporting requirements under federal statutory programs including The Resource Conservation and Recovery Act, Clean Air Act, Emergency Planning and Community Right-to-Know Act, Spill Containment and Countermeasures Program, the Clean Water Act and Superfund, just to name a few. None of these programs require third-party verification of reporting, and many don't even require self-certification. All, however, include enforcement provisions, which create significant disincentives for faulty or false reporting. Any GHG reduction regime promulgated at the federal or state level will incorporate similar enforcement mechanisms designed to promote good behavior and penalize violators. Any requirement for third party verification in a federal mandatory reporting program will add significant and unnecessary costs to the regulation. The Arizona Chamber respectfully urges the EPA not to include a requirement for third-party verification in the GHG reporting rule, but instead rely upon the ample enforcement authorities available to the Agency, or consider the use of self-certification of emissions reports as is done for Title V reports under the Clean Air Act.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Joseph J. Croce
Commenter Affiliation: Virginia Manufacturers Association (VMA)
Document Control Number: EPA-HQ-OAR-2008-0508-0526.1
Comment Excerpt Number: 5

Comment: There should be self-certification of the reporting, as third party verification is costly and offers little benefit. Moreover, self-certification is utilized in other EPA programs, notably Title V and TRI. While it is important to establish a U.S. GHG registry, the EPA should promulgate regulations that promote economic development and do no harm to the U.S. economy.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Allen Kacenjar
Commenter Affiliation: Squire Sanders
Document Control Number: EPA-HQ-OAR-2008-0508-0492.1
Comment Excerpt Number: 5

Comment: We would like to highlight our strong support for EPA's conclusion that third-party verification is unwarranted. For decades, regulated entities nationwide have reported and certified a wide variety of emissions information to state agencies and EPA. This system has been remarkably successful – in large part because the regulated community takes certification very seriously. It would be inconsistent to allow self-reporting for criteria pollutants, hazardous air pollutants and TRI chemicals while applying a different "third-party" standard to GHGs. Mandating third-party verification would also cause substantial delays that would make both the March 31 deadline in the Proposed Rule and the July 1 deadline suggested above infeasible. Operators already have ample financial, legal and practical incentives to accurately self-report GHG emissions. Nothing more is necessary or appropriate.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: James P. Brooks
Commenter Affiliation: Maine Department of Environmental Protection
Document Control Number: EPA-HQ-OAR-2008-0508-0404.1
Comment Excerpt Number: 4

Comment: The Department does not believe that third party data verification of submittals is necessary. This would increase the financial burden for regulated entities, reduce the time available for sources to generate their estimates because the data must be verified prior to submittal, and presumes that the regulatory agency receiving the submittal would not perform a sufficient review of the data. If the receiving agency (EPA, or the states as recommended above) reviewed the "verified" data and identified discrepancies, the source would be forced to pay a third party for additional verification of the revised data before resubmitting.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Phillip McNeely
Commenter Affiliation: City of Phoenix, AZ
Document Control Number: EPA-HQ-OAR-2008-0508-0374.1
Comment Excerpt Number: 4

Comment: Support the proposal to allow self certification with EPA verification of reporting data (Option 3). Self certification with EPA verification provides reliable data management that is consistent with EPA's long-established approach to existing air quality reporting requirements. This approach offers efficient data collection and reporting that can be coordinated with existing requirements at many of the facilities affected by this rule. Self certification with 3rd party verification (Option 2) creates unnecessary and expensive burden on the regulated community and is inconsistent with other EPA programs.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Angela D. Marconi
Commenter Affiliation: Delaware Solid Waste Authority
Document Control Number: EPA-HQ-OAR-2008-0508-0472.1
Comment Excerpt Number: 3

Comment: Preamble section IV.J (page 16476). DSWA supports the decision to allow self-certification with EPA verification, as opposed to requiring third party verification. Third party verification would impart a substantial burden on DSWA as well as many other landfill owner/operators. DSWA's landfills do not qualify for carbon credits; therefore third party verification is not required for any of our sites.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Kerry Kelly
Commenter Affiliation: Waste Management (WM)
Document Control Number: EPA-HQ-OAR-2008-0508-0376.1
Comment Excerpt Number: 31

Comment: The potential delays in program implementation due to third party verification would be troublesome for both reporters and the Agency. EPA would immediately need to develop a process and criteria for approving, certifying and overseeing third-party verifiers, and EPA would need to approve a sufficient number of verifiers to meet the needs of a very large number of reporting parties. Additionally, the reporting schedule that EPA has proposed leaves insufficient time for a reporter to complete collection of reporting year emissions data, calculation of emissions, and contract for and undergo third-party verification by the March 31 report submission deadline. Our experience with both the CCX and CCAR programs is that a number of questions and technical and logistical issues can arise in the course of third-party verification that must be resolved before the verifier can certify reported emissions. Potential delays in meeting reporting deadlines for a voluntary reporting program, while bothersome, do

not result in compliance and enforcement penalties as would be the case for a mandatory program. If EPA were to require third-party verification of GHG emissions reports, it would need to reconsider the proposed reporting schedule and deadlines to allow more time for reporters to complete their inventories and undergo third-party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. Also see the preamble for the response to comments on the annual report submittal date.

Commenter Name: See Table 4
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0455.1
Comment Excerpt Number: 18

Comment: Proposed § 98.36(d)(2) specifies that the owner or operator of an affected facility would be required to submit certain verification data upon request by the Agency. The Class of '85 supports EPA's decision not to require third-party verification of this data. Self certification of emissions data under the Acid Rain Program has and continues to provide reliable data to EPA. Similar self certification can be equally successful for the collection of GHG emissions data without the burden and expense of third-party verification.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Rasma I. Zvaners
Commenter Affiliation: American Bakers Association (ABA)
Document Control Number: EPA-HQ-OAR-2008-0508-0497.1
Comment Excerpt Number: 9

Comment: The Agency seeks comment on the reporting frequency and whether annual reporting is suitable for all affected source categories. EPA also seeks comments on how to verify the information that a source has submitted. In particular, do affected sources prefer self-certification with EPA verification or self-certification and third-party verification? 74 FR 16463. ABA supports an affected source, self certifying its actual greenhouse gas emissions. The source would maintain the submitted report and any supporting documentation. If there are changes to an operations that would impact emissions, the source should be able to notify the Agency of this change and continue maintaining record materials (calculations used etc.) on-site. EPA could access this information and verify as necessary. The contrary approach, requiring third-party auditing of emissions reports, would impose a new, significant burden on the food processing industry – both in terms of money and diversion of personnel and resources – that will inevitably adversely impact food prices and U.S. competiveness. For example, it would cost a medium size bakery between $6,000 and $10,000 to have an outside consultant develop an emissions inventory. This cost does not include the time that the bakery would have to spend collecting the data to conduct the inventory. Even companies who have constructed LEED-certified green buildings have only proceeded with third-party verification on a limited basis due to the cost impact. Accordingly, ABA strongly encourages EPA to adopt a self-certification program for reporting annual emissions in the food processing industry.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. With regard to the commenters mention of the food processing industry, at this time EPA is not going final with the food processing subpart. As we consider next steps, we will be reviewing the public comments and other relevant information. Thus, we are not responding to comments on this subpart at this time.

Commenter Name: Maureen Beatty
Commenter Affiliation: National Refrigerants, Inc. (NRI)
Document Control Number: EPA-HQ-OAR-2008-0508-0434.1
Comment Excerpt Number: 18

Comment: NRI strongly supports allowing producers and importers of fluorinated GHGs to self-report without third-party verification requirements. Entities producing and importing HCFCs and other ODS have self-reported for years, without EPA raising significant concerns over accuracy. Third-party verification would simply be an unnecessary and burdensome cost that entities would have to bear and which would ultimately result in higher prices to users of the gases. Rather, EPA could retain authority to inspect and review reports as appropriate to ensure reporting is accurate.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach. Regarding the commenter's mention of producers and importers of fluorinated GHGs, the final rule (40 CFR part 98, subpart OO) contains requirements for suppliers on industrial GHGs (including producers and importers of fluorinated GHGs). However, at this time EPA is not going final with the fluorinated GHG production subpart (proposed 40 CFR part 98, subpart L). As we consider next steps, we will be reviewing the public comments and other relevant information. Thus, we are not responding to comments on proposed subpart L at this time.

Commenter Name: Dale E. Furrow
Commenter Affiliation: The George Washington University School of Public Health MPH Candidate
Document Control Number: EPA-HQ-OAR-2008-0508-0219.1
Comment Excerpt Number: 6

Comment: According to the rule, the mandatory 25,000 metric ton reporting requirement will result in data collection from 85-90% of US emission sources. There is a potential for wide variability of that number unless clearer direction is provided to borderline facilities, whose emissions likely fall incrementally above or below the threshold. For the larger emitters, it is quite clear that they must report, and even if they fell below the 25,000 ton threshold, they would likely fall into one of the other mandatory reporting categories. For the smaller emitters, it is clear they do not meet the threshold. Mid-sized corporations are provided minimal guidance for determining whether they meet the threshold. Without being provided that guidance through the rule, the data collection could fall well below the 85% mark. The EPA has included an auditing quality control program in the rule for those meeting the reporting threshold. In like fashion EPA should develop an auditing program for borderline companies who claim to fall below the threshold to serve as a double-check on accountability.

Response: EPA plans to audit any facility we believe to be subject to the rule that does not report. For additional information, see the preamble for the response enforcement and Volume 8 (Compliance and Enforcement) of this document.

To help facilities understand their reporting responsibilities under the rule, EPA intends to offer guidance on determining applicability through the release of informational documents, tools, and training. Companies must calculate their emissions for applicability determination purposes according to the requirements listed in the 40 CFR part 98, subpart A.

Commenter Name: Lane Hallenbeck
Commenter Affiliation: American National Standards Institute (ANSI)
Document Control Number: EPA-HQ-OAR-2008-0508-0411.1
Comment Excerpt Number: 1

Comment: As EPA has noted, a number of state and regional programs are already in place or under development. All of these programs already have in place or plan to create requirements for the third party verification of GHG assertions to ensure the reliability and quality of reported emissions data. These programs are also similar in that they all require accreditation of the verifiers. The Climate Action Reserve, The Climate Registry, Western Climate Initiative, Regional Greenhouse Gas Initiative, and California Air Resource Board all require or will require accreditation requirements for verification bodies. This consistency in the use of third party verification will help to provide consistent and reliable emissions data and will enable greater interoperability of GHG programs between states and programs. ANSI encourages EPA to review these accreditation requirements further and adopt a similar approach to quality assurance oversight of EPA reported emissions data. ANSI accredited verification bodies are currently recognized by The Climate Registry, the Climate Action Reserve, Chicago Climate Exchange, and the Voluntary Carbon Standard Association. The ANSI process is being utilized by RGGI participating states to provide both a robust and streamlined state accreditation process. The Western Climate Initiative includes requirements that are consistent with ISO 14064-3 Greenhouse gases – Part 3: Specification with guidance for the validation and verification of greenhouse gas assertions. In addition, WCI's Final Draft Essential Requirements of Mandatory Reporting requires that participating verification bodies are accredited to either California Air Resource Board under Title 17, California Code of Regulation, section 95132 or are accredited to ISO 14065 through a program development under ISO 17011 by an accreditation body that is a member of the International Accreditation Forum. ANSI is aware that EPA performed a review of voluntary reporting protocols and standards. However, it does not appear that EPA has reviewed standards related to Conformity Assessment in GHG accounting such as ISO 14065:2007. A number of domestic as well as international programs are using (or plan to use) the ISO GHG series of standards to support the design and implementation of flexible, regime-neutral tools for use in voluntary or regulatory GHG programs as well as to promote and harmonize best practice. The stated goal of the EPA rule is to have a reporting program that will supplement and complement, rather than duplicate, U.S. government and other GHG programs. ANSI commends the EPA for this goal that complements the National Transfer and Advancement Act (OMB Circular A-119) and further encourages EPA to: 1. Review existing accreditation requirements either implemented or proposed by state and regional GHG programs. 2. Complete further review of existing conformity assessment systems and the role of third party verification to assure quality reporting. 3. Conduct a review of ISO 14065:2007 and ISO 14064 parts 1 – 3.

Response: EPA reviewed third party verification programs used by state and international agencies (e.g., EU ETS) and their associated criteria and processes for accreditation of verifiers. This included a review of the ANSI accreditation criteria and process used for TCR reporting. As stated in the memorandum "Review of Verification Systems in Environmental Reporting Programs" (EPA-HQ-OAR-2008-0508-047), we recognize that these third party verification and accreditation processes were designed to ensure consistency with ISO 14065:2007 and ISO 14064. EPA has reviewed these ISO standards. However, for reasons stated in Section II.N of the preamble, EPA has selected self-certification with EPA verification rather than a third party verification approach for this reporting rule.

Commenter Name: Olon Plunk
Commenter Affiliation: Xcel Energy Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0444.1
Comment Excerpt Number: 4

Comment: Further, EPA should be certain to meet the criteria, personnel qualifications and other requirements for international verification standards to facilitate the critical international trade in GHG allowances, e.g. with the European Union, Canada, and other trading systems. It would be an unfortunate if market participants were cut off from international trade because no provision is made for proper certification of EPA-verified allowances according to the International Standards Organization (ISO 14065)1 and other applicable requirements for verifiers.

Response: The rule only requires reporting of GHG emissions; it does not regulate GHGs, mandate emissions reductions, or establish trading allowances. For reasons discussed in the preamble, the final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Phillip McNeely
Commenter Affiliation: City of Phoenix, AZ
Document Control Number: EPA-HQ-OAR-2008-0508-0374.1
Comment Excerpt Number: 5

Comment: Specifically for landfills, third party verification is an unnecessary expense to the property owner because landfill emissions are a relatively steady state and can be easily verified for accuracy and consistency. Landfill emissions can also be compared year to year, unlike industrial sources where emissions can vary widely based upon market conditions and production volumes.

Response: The final rule retains self-certification with EPA verification. See the preamble for the full response on the emissions verification approach.

Commenter Name: Bernard T. Delaney
Commenter Affiliation: Association of Accredited Verification Bodies (AAVB)
Document Control Number: EPA-HQ-OAR-2008-0508-0531.1
Comment Excerpt Number: 4

Comment: EPA discusses the burden of creating a third-party verification program and suggests that it would bear costs to develop its own third-party verification requirements and protocols for the GHG rule (building on the state programs), because the existing verification and accreditation requirements are program-specific. However, program neutral accreditation programs currently exist that EPA could leverage, such as the ANSI-administered GHG Validation/Verification Body accreditation program that accredits verification bodies to the International Organization for Standardizations's standard ISO 14065. Additionally, EPA would have to create internal protocols to assure appropriate quality control in the absence of third-party verifications. Costs associated with creating a new system can be avoided by adopting the ANSI system making the cost-benefit analysis for third-party verification more favorable than presented by EPA.

Response: EPA selected the self certification with EPA emissions verification approach based on a number of factors in addition to costs. See the preamble for the full response on the emissions verification approach. EPA recognizes that, had we selected a third party verification approach, we could have developed certification procedures that built upon those contained in state programs, TCR, ANSI, and ISO. However, in order to be relevant and applicable to the unique scope and specific requirements of this reporting rule, verification and accreditation systems would have required substantial customization to this rule.

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2. MISSING DATA

Commenter Name: Steven J. Rowlan
Commenter Affiliation: Nucor Corporation (Nucor)
Document Control Number: EPA-HQ-OAR-2008-0508-0605.1
Comment Excerpt Number: 32

Comment: In 98.3(g)(10), Nucor questions the value of missing data computations given the 25,000 ton threshold value and the insignificant impact on global GHG emissions. There is no cap-and-trade program or other system that requires this level of specificity. Nucor objects to the assumption that any such system that may be adopted is yet known in sufficient detail to provide justification for such burdensome requirements.

Response: The intent of the reporting rule is to collect consistent, complete annual emissions data for use in developing future policies and CAA programs. A significant amount of GHGs could be emitted during periods when monitoring data cannot be collected due to malfunctions of the monitoring systems or other unavoidable circumstances. To ignore emissions during these periods would result in underestimation of annual emissions. Therefore, in order to obtain more complete and useful annual emissions data, the rule requires reporters to estimate emissions during missing data periods. The provisions generally rely on measured values before and after the missing data period or other available data and estimating procedures, and are not overly burdensome. For responses to comments on the specific missing data procedures for a specific source category, see the preamble section and comment response document on the relevant source category subpart.

Commenter Name: Lauren E. Freeman
Commenter Affiliation: Hunton & Williams LLP
Document Control Number: EPA-HQ-OAR-2008-0508-0493.1
Comment Excerpt Number: 40

Comment: UARG strenuously disagrees with EPA's statement regarding the impact of missing data on compliance. In the preamble, EPA states that "merely filling in missing data as specified does not excuse a failure to perform the monitoring or testing." 74 Fed. Reg. at 16,596. Although UARG agrees that a source cannot comply with the rule simply by filling in missing data, in most cases filling in missing data does excuse a failure to monitor. A source that is conducting monitoring according to the required methodology, but that does not achieve 100 percent data availability with that methodology, is not in violation of the rule. This point is particularly relevant to the Part 75 data ARP affected units would be required to use under this proposed rule. Part 75 imposes stringent quality assurance requirements that can routinely result in missing data. Some of this data can be missed as a result of the requirement to perform quality assurance tests (e.g., daily calibration error tests and quarterly linearity tests) on monitors, since monitoring systems cannot read both stack emissions and calibration gas at the same time. Other data might be missed as a result of routine maintenance or corrective action after a failed test. The fact is that even well maintained monitoring systems fail tests, malfunction, or break. Although CO_2 and heat input data availability under Part 75 is generally very high, 100 percent availability was never contemplated and EPA has never suggested that it is required in order to comply with the rule. UARG requests that, in taking final action in this rulemaking, EPA withdraw and rephrase its statement regarding the effect of missing data on compliance (e.g., to say that a source cannot comply with the rule simply by filling in missing data).

Response: EPA recognizes that uncontrollable circumstances may arise, leading to gaps in data collection. The rule provides procedures to estimate and report missing data if such situations occur. However, EPA does not agree that filling in missing data would excuse a source from the duty to meet the monitoring requirements absent of good faith efforts to conduct applicable monitoring and testing procedures. For example, if missing data is caused by failure to properly maintain monitoring equipment, failure of employees to follow the proper procedures, failure to plan for reasonably foreseeable circumstances, etc., then the failure to collect the required monitoring data could be considered a violation. The section on compliance and enforcement in the preamble to the final rule retains the language that "merely filling in missing data as specified does not excuse a failure to perform the monitoring or testing." The preamble also responds to comments on enforcement flexibility. Regarding methods to compute missing data, EPA has reviewed public comments on the specific missing data requirements of the individual source category subparts. EPA has revised the final rule to address comments and provide additional flexibility where appropriate, and has clarified general recordkeeping for missing data in subpart A. See the preamble and the comment response documents for the individual rule subparts for discussion of specific changes.

Commenter Name: Caroline Choi
Commenter Affiliation: Progress Energy
Document Control Number: EPA-HQ-OAR-2008-0508-0439.1
Comment Excerpt Number: 19

Comment: Progress Energy strongly disagrees with EPA's statement regarding the impact of missing data on compliance. In the preamble, EPA states the "merely filling in missing data as

specified does not excuse a failure to perform the monitoring or testing." Although Progress Energy agrees that a source cannot comply with the rule simply by filling in missing data, in most cases filling in missing data does excuse the failure to monitor. A source that is conducting monitoring according to the required methodology, but that does not achieve 100 percent data availability with that methodology, should not be considered to be in violation of the rule. This point is particularly relevant to the Part 75 data EPA proposes to require ARP-affected units to use under this rule. Part 75 imposes stringent quality assurance requirements that can routinely result in missing data. Some of these data can be missed as a result of the requirement to perform quality assurance tests (e.g., daily calibration error tests and quarterly linearity tests) on monitors, since monitoring systems cannot read both stack emissions and calibration gas at the same time. Other data might be missing as a result of routine maintenance or corrective action. The fact is that even well-maintained monitoring systems fail tests, malfunction, or break. Although CO, and heat input data availability under Part 75 is generally very high, 100 percent availability was not contemplated and EPA has to date never suggested that it is required in order to comply with the rule. Progress Energy urges EPA to withdraw and rephrase the statement regarding the impact of missing data on compliance (e.g., to say that a source cannot comply with the rule simply by filling in missing data).

Response: See the response to comment EPA-HQ-OAR-2008-0508-0493.1, excerpt 40.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 27

Comment: Some reporters may attempt to shield themselves behind the missing data provisions, arguing that data generated with those procedures is sufficient to meet the general compliance requirements. This ‘missing data shield’ is dangerous, particularly because EPA has not capped the amount of missing data which may be submitted. EPA certainly does not intend such a shield, as, under the general compliance provision of the rule, “[a] violation includes . . . failure to report GHG emissions, failure to collect data needed to calculate GHG emissions, [and] failure to continuously monitor and test as required.”193 To remove the danger, then, EPA should add a sentence to the compliance provision stating that “Use of the missing data procedures provided by this part does not relieve you from your duties under this part and is not a defense to an enforcement action.” While we do not anticipate that EPA will prosecute truly minor missing data problems, the presence of enforcement authority will deter violations and reduce unnecessary litigation as to when a facility has crossed the line from de minimis error to bad faith reporting.

Response: The preamble to the proposed and final rule clearly states that merely filling in missing data as specified does not excuse a failure to perform the monitoring or testing. Filling in data gaps that are missing does not relieve an operator from liability for failure to continuously monitor and test as required, as discussed in the response to comment EPA-HQ-OAR-2008-0508-0493.1, excerpt 40. See the preamble for the full response on enforcement.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 14

Comment: Marathon opposes EPA's current substitution requirements to substitute missing data using the arithmetic average of the previous and next quality assured data point. Marathon proposes allowing the use of the last quality assured value available and using that until a new quality assured value is provided. If a value is unavailable for an extended period of time, this option allows ongoing emission calculation rather than waiting until a new value becomes available.

Response: In response to comments, EPA added flexibility to the missing data provisions in Subpart C (General Stationary Fuel Combustion Sources) of the final rule, which at proposal contained the requirement cited by this commenter. See the preamble section on subpart C for the full response on estimating missing data from stationary combustion sources. In addition, after review and consideration of public comments on missing data procedures for specific source categories, EPA revised missing data requirements in other source category subparts as appropriate. For discussion of changes to the final rule and responses to missing data comments for specific source categories, see the preamble sections and comment response documents on the relevant subparts.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 41

Comment: Marathon proposes that EPA should include an allowance for compliance plan implementation if missing data substitution using the stated procedures is unable to be met.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0712.1, exerpt 14.

Commenter Name: Paul L. Carpinone
Commenter Affiliation: Tampa Electric Company (TECO)
Document Control Number: EPA-HQ-OAR-2008-0508-0717.1
Comment Excerpt Number: 2

Comment: It is extremely important that the monitoring requirements seek accurate information without unduly penalizing Tampa Electric for missing data, which could have severe financial implications. Companies should have the opportunity to offer alternative data to ensure precision in the annual GHG inventory.

Response: In response to comments, EPA revised the rule since proposal to add flexibility to the missing data provisions in Subpart C (General Stationary Fuel Combustion Sources) of the final rule. See the preamble section on subpart C for the full response on procedures for estimating missing data for combustion sources.

Commenter Name: Kathy G. Beckett
Commenter Affiliation: West Virginia Chamber of Commerce
Document Control Number: EPA-HQ-OAR-2008-0508-0956.1
Comment Excerpt Number: 13

Comment: In the preamble, EPA explains that it has determined that the rule should include procedures for filling in missing data and solicits comment on whether to include a provision establishing a minimum standard for reported data (e.g., only 10 percent of the data reported can be generated using missing data procedures). 74 Fed. Reg. at 16474. In addition, EPA solicits comment on whether the program should include provisions to require reporters to submit recalculated data if errors are identified, and under what circumstances such recalculations should be required. 74 Fed. Reg. at 16474. While specifying minimum data availability requirements can have merit under some programs (particularly when there are no other incentives for good data availability), determining the appropriate level can be difficult. The amount of missing data a source might reasonably have is dependent on a number of factors related to the methodology being used, including the frequency of data collection and the stringency of any applicable quality assurance/quality control criteria. In short, the Chamber does not believe that it is possible in a program like this with such disparate methodologies to establish a single data availability requirement for all sources. Issues regarding data collection should be dealt with on a case by case basis. The question of whether to require recalculation and resubmission of data is similarly complicated. Although some designated representatives may prefer to recalculate and recertify their submitted data if an error is discovered, allowing or even requiring such resubmission vastly complicates EPA's data management efforts. Decisions regarding resubmission also should be made on a case by case basis taking into account the significance of the difference between previously submitted and recalculated data and the overall potential impact of the error on the usefulness of the data. However, EPA should not attempt to prohibit a designated representative from resubmitting data, if doing so is necessary to make the submitted data consistent with other records the source is required to keep. Sources should not be required to retain two sets of data if they are not prepared to do so.

Response: EPA considered including a minimum standard for reported data (e.g., a maximum percent missing data) but determined that this approach is not appropriate. The commenter correctly states that the amount of missing data is dependent on factors related to monitoring approach and frequency of sampling. Specifying a uniform minimum standard is not feasible in a rule where methodologies and frequencies of data collection vary according to sources and industries. For example, facilities performing monthly analysis would require higher minimum standards since they would be more susceptible to losing large amounts of data relative to those performing daily analysis. Developing maximum percentages specific to each source category, however, would increase the rule's overall level of recordkeeping and compliance complexity while not necessarily enhancing the accuracy of reported data. Even without a minimum standard, there are several incentives to minimize the amount of missing data. As noted in response to comment EPA-HQ-OAR-2008-0508-0493.1, excerpt 40, reporting missing data does not excuse a facility from their duty to make a good faith effort to continuously monitor and test as required by the rule. The potential for enforcement action will deter facilities from failure to collect proper data except under unavoidable circumstances. In addition, the final rule requires the annual GHG reports to identify each data element for which a missing data procedure was used, and the general recordkeeping requirements for missing data have been clarified in Subpart A of the final rule. Reporters must keep records of missing data calculations and missing data events, including actions taken to restore malfunctioning monitoring equipment, the cause of the event, and the actions taken to prevent or minimize occurrence in the future. Aside from these

rule requirements that discourage overuse of missing data, we anticipate that many reporting facilities under 40 CFR part 98 already have flow monitors and other data collecting equipment required by the rule because it is necessary to monitor and maintain their business operations. There is little incentive to avoid providing adequate data availability when such data is already essential for business purposes. For the response to the comment about submitted corrections to GHG reports, see the preamble section on submittal date and making corrections to annual reports.

Commenter Name: See Table 10
Commenter Affiliation:
Document Control Number: EPA-HQ-OAR-2008-0508-0635
Comment Excerpt Number: 26

Comment: Because missing data threatens the reporting system's integrity, EPA should take strong steps to encourage facilities to avoid data gaps. Reporting facilities will face strong incentives for underreporting: After emissions reductions systems go into force, GHG emissions will become a significant liability, and letting monitoring slide will become a tempting possibility. The proposed rule's missing data provisions do not sufficiently counterbalance these incentives. The proposed rule takes two basic approaches to missing data. In some instances facilities must simply repeat missing tests, and no missing data procedures are provided. In the majority of cases, however, EPA emphasizes that "[a] complete record of all measured parameters used in the GHG emissions calculations is required," but provides missing data procedures to fill in any gaps in actual estimated or measured data. Although these procedures vary from category to category, they generally use a basic gap-filling averaging technique, requiring reporters to average the "quality-assured values" of the parameters "immediately preceding and immediately following the missing data incident." There is no apparent limit on the amount of data facilities may generate using these procedures. This generally forgiving approach towards missing data is not sufficiently rigorous and is not consistent with the procedures used in other reporting programs, including the EPA's own Acid Rain Program. We urge EPA to take several steps to tighten its requirements. It should (1) clarify enforcement requirements and liability for missing data, (2) adopt a minimum standard for missing data, (3) always require an explanation for missing data, (4) require recalculation of misreported or missing data, and (5) design missing data calculations to reward good recordkeeping and monitoring practices. First, EPA should clarify in the proposed rule and preamble when submissions with missing data will violate the rule. The preamble straightforwardly provides that use of "missing data procedures does not necessarily reverse the potential rule violation and would not relieve the reporter of any penalties associated with the violation."191 The missing data provisions themselves, however, could be interpreted as confusing, providing both a "a complete record of all measured parameters...is required" and yet offering procedures to calculate missing parameters without stating whether those procedures excuse the missing data itself. Second, EPA should adopt a "minimum standard for reported data," limiting the amount of missing data that can be reported using the missing data procedures, as it suggests in the preamble. Failing to set a cap invites overuse of the procedures. EPA should also regularly reevaluate any cap it sets after several years of data have been reported to determine whether it is low enough. If most reporters are well below the cap, then EPA should lower it further. Third, EPA should always require a clear explanation for missing data. Reporting facilities should justify their failure to monitor their own emissions, both to deter negligence and to flag problems with the reporting protocols themselves. Fourth, perhaps most importantly, EPA should rethink the way it calculates missing data values. Simply averaging the two nearest points to the data

gap, as the standard procedure now generally mandates, may underestimate missing data points and does not provide a strong enough disincentive against poor data monitoring practices. EPA apparently considered "more conservative missing data procedures," including using high default values, but decided against proposing them "out of concern that GHG emissions might be significantly overestimated." But overestimation concerns do not, as a general matter, justify abandoning more rigorous missing data procedures. To be clear: Over-estimates may cause problems, but generally are of chief concern only during the allocation phase of an emissions reduction program. Over-estimates at that phase could lead to facilities with inaccurately high emissions figures being allocated more allowances than they need, creating an inappropriate emissions cushion which will slow future reductions. But once allocations have been made, over-estimates no longer raise these concerns. Instead, facilities with over-estimated emissions will have to purchase excess allowances, and so will face a cost penalty for poor data reporting practices. Thus, as facilities improve their monitoring practices and the completeness of their data, and so are no longer required to report high default values, their compliance costs will decline. As a result, high default missing data values in the compliance context will provide a strong cost incentive for data quality improvement. [footnote: 196 We also note that EPA's overestimation concerns may be misplaced, regardless of which phase of the program is involved. Missing data may not occur at random. Some monitors may be likely to fail during plant upsets, when other systems also fail. Start-up, shut-down, and malfunction events are precisely the times when emissions are often at their highest. If data goes missing during those periods, replacing it with averages from periods of normal operation will systematically underestimate emissions from the missing period. EPA should carefully monitor for this possibility and should regularly evaluate whether missing data is correlated with such events, both in the context of individual facilities and throughout the reporting program.] EPA does not have to guess at this compliance-phase result. The Acid Rain Program experience demonstrates the effectiveness of well-crafted missing data procedures. That program calculates missing data based on a sliding scale keyed to the amount of time data goes missing. Initially, if a plant is successfully monitoring data at least 95% of the time, the missing data is filled in using a simple average of the points surrounding the gap. But as missing data periods grow, the rule tightens. If the monitor is failing between 5% and 10% of the time, plants are to report emissions in the 95th percentile of their previously recorded emissions over 720 operating hours. Failures between 10% to 20% of the time trigger the maximum emissions rate from the previous 720 hours as a default value. And should the plant fail to record emissions more than 20% of the time, gaps are filled in using its maximum possible emissions. This approach has not produced systemic overestimates; instead, the strong incentives it creates for proper reporting has produced a data set that is widely known for its high quality. [footnote: See, e.g., Ackerman, supra n. 83.] There is every reason to think that applying this approach to GHG emissions will yield the same excellent results. [footnote: This method may reduce the need to set an absolute cap on missing data if its default values are set sufficiently high. If EPA applies both approaches, it could set the sliding scale system to reach its highest values just below the cap, thereby discouraging facilities from approaching it.] The EU emissions monitoring program takes similar, if somewhat less sophisticated, steps. In that system, missing data is calculated by taking the average of all data across a reporting period and then adding the standard deviation of that parameter to the average. [footnote: EU Commission Decision 2007/589/EC Annex I, § 6.3(b)(i).] This method generates a replacement for the missing value at the high end of normal variability within a parameter. We recommend the EPA's Acid Rain Program method over this approach, but note it to demonstrate that high default values are widely used in GHG monitoring. EPA should not abandon this valuable incentive solely because of overestimation concerns that have great weight only at the allocation phase. Instead, if it believes that high default values will distort allocations, it should employ its current proposed averaging method solely for allocation purposes, and then use high

default values for compliance purposes.

Response: The final rule includes revisions to the missing data provisions of Subpart C (General Stationary Fuel Combustion Sources) of the final rule. See the preamble section on subpart C for the full response on procedures for estimating missing data for combustion sources. With respect to a minimum standard for missing data, see the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13. With respect to enforcement, see the response to comment EPA-HQ-OAR-2008-0508-0635, excerpt 27 and the preamble section on compliance and enforcement.

Commenter Name: Mary Uhl
Commenter Affiliation: New Mexico Environment Department
Document Control Number: EPA-HQ-OAR-2008-0508-0450.1
Comment Excerpt Number: 9

Comment: New Mexico recommends that the reporting rule include a provision for minimum data collection, and procedures for approving interim data collection during equipment breakdowns at general stationary fuel combustion sources. The proposed rule would require the reporter to document and keep record of the procedures used to determine the appropriate substitute data values. New Mexico concurs with WCI's recommendations that EPA set an acceptable limit for missing fuel analytical or direct measurement data and that EPA provide a procedure for approval of interim data collection procedures in the event of unforeseen breakdowns.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13. Also, see the preamble section on subpart C (General Stationary Fuel Combustion Sources) for the response to comments on the specific missing data procedures for combustion sources.

Commenter Name: D. Lawrence Zink
Commenter Affiliation: Montana Sulphur & Chemical Company Inc. (MSCC)
Document Control Number: EPA-HQ-OAR-2008-0508-0505.1
Comment Excerpt Number: 10

Comment: We believe that the data filling scheme using the most recent valid and the next valid values to establish a substitute value is often appropriate for electronic data. We believe it would be more appropriate to use the 'last valid' value (or prior average of valid data) when a new valid value has not been established as of the date of reporting. It would be appropriate to create a safe haven that would allow a facility to establish its own method for obtaining the appropriate substitute data including for cases where the data collection is not an electronic methodology. The requirement to consider "all available process data" could be unnecessarily resource intensive, and may be infeasible. The requirement for "best available" is also unnecessarily restrictive; a phrase such as "suitably representative" is more appropriate for this use, or "reasonable judgment" or "good faith". In many cases representative data already exist. Such methodology would be presented in the required written quality assurance performance plan. It is senseless to require "best available" and consideration of "all" process data, in some cases and provide blanket exemption in others for the same emission.

Response: The proposed subpart C (General Stationary Fuel Combustion Sources) required the average of before and after values for three parameters: HHV, carbon content, and molecular

weight. In response to comments, the final rule subpart C adds flexibility to use the "before" value if the "after" value is not available when the GHG emission report is due. For all other parameters, subpart C allows missing data values to be determined based on best available estimates. See the preamble section on subpart C for the full response on procedures for estimating missing data for general stationary combustion sources. Also see the preamble and the comment response documents for the relevant subparts for responses to comments on the specific missing data estimation procedures for each source categories.

Commenter Name: Craig Segall
Commenter Affiliation: Sierra Club
Document Control Number: EPA-HQ-OAR-2008-0508-0228n
Comment Excerpt Number: 5

Comment: EPA takes several different missing data approaches in their rule. In some categories, we think it should be all categories; anyone with missing data is required to justify why it is missing. Give some explanation to what went wrong. As a general rule, it should probably be in all sources. You should know in particular what is going on, and some sources also have a higher default values assumed. This is most obviously carbonated square unless they measure otherwise and have missing data. Carbon tech 2, go completely CO_2. It is worth thinking about, although there is obviously overestimation problems, similar high default values for other missing data protocols.

Response: In response to public comments and to improve consistency, EPA has revised missing data procedures in some of the source category subparts in the final rule. See the preamble sections and comment response documents for the individual source categories. Subpart A of the final rule requires the annual GHG reports to identify each data element for which a missing data procedure was used. In addition, EPA has added a general recordkeeping requirement in Subpart A of the final rule that requires reporters to keep records of missing data calculations and missing data events, including actions taken to restore malfunctioning monitoring equipment, the cause of the event, and the actions taken to prevent or minimize occurrence in the future.

Commenter Name: Ushma N. Domadia
Commenter Affiliation: Drexel University Earle Mack College of Law
Document Control Number: EPA-HQ-OAR-2008-0508-0234
Comment Excerpt Number: 4

Comment: The mandatory GHG reporting program should include provisions to require reporters to submit missing and recalculated data where needed. It is understood that there are times when monitors may stop functioning properly or may malfunction ,causing the data to be inaccurate or not even be recorded. Therefore, the EPA should adopt provisions for when there is missing data on the emissions of GHGs. It is understood that the only way to gain missing data would be to redo the tests or correct calculation errors in the data reported. This may seem cumbersome, but is an inherent check/ quality control on the data being submitted. A policy of allowing 10 percent of the data reported to be generated using missing data procedures would be helpful in setting the standard that the missing data is vital, without overburdening the facilities.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13, regarding the comment on missing data. See the preamble for the response on correcting errors in

annual GHG reports after the report has been submitted.

Commenter Name: Thomas Siegrist
Commenter Affiliation: Koch Nitrogen Company LLC
Document Control Number: EPA-HQ-OAR-2008-0508-0351.1
Comment Excerpt Number: 27

Comment: EPA has requested comment on the need to require a minimum standard for reported data (i.e., a maximum percentage of reported data that could be generated using missing data procedures). Proposed sampling and analytical requirements vary by specific source and/or industry, so establishment of a single maximum percentage of data generated using missing data procedures that would be suitable for all reporting situations is infeasible. Developing specific maximum percentages for each type of source and/or industry, however, would significantly increase the proposal's overall level of recordkeeping and compliance complexity, while doing little to enhance the accuracy of reported data. Furthermore, any establishment of a single quantitative value that would define acceptable/unacceptable reporting could only be done arbitrarily. EPA should not impose such a minimum standard for reported data. If EPA should decide to impose such a standard, despite the logic of the statements above, the standard should not be applied to any reporting done before calendar year 2011. This would allow adequate time for reporting facilities to purchase and install required sampling and analytical equipment and to develop and implement testing plans that reflect the level of training and QA/QC review necessary to assure compliance with such a standard.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13.

Commenter Name: Helen A. Howes
Commenter Affiliation: Exelon Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0373.1
Comment Excerpt Number: 12

Comment: Exelon recommends that the use of missing data methodologies be limited in order to meet the goals of the program. Allowing facilities to use the missing data methodologies to calculate all of their emissions seems contrary to the intent of the proposed rule since the reported emissions will not be based on actual data. Instances occur where data are lost or missing due to circumstances beyond the facility's control so it is important to have an option for facilities to use, but there should be some requirement to use actual facility data for the calculations.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13.

Commenter Name: Lauren E. Freeman
Commenter Affiliation: Hunton & Williams LLP
Document Control Number: EPA-HQ-OAR-2008-0508-0493.1
Comment Excerpt Number: 15

Comment: UARG has significant experience with missing data substitution procedures under Part 75 and with the pros and cons of resubmitting data in the event errors are identified. While

specifying minimum data availability requirements can have merit under some programs (particularly when there are no other incentives for good data availability), determining the appropriate level can be difficult. The amount of missing data a source might reasonably have is dependent on a number of factors related to the methodology being used, including the frequency of data collection and the stringency of any applicable quality assurance/quality control criteria. For example, sources performing daily analysis are less likely to lose large amounts of data (e.g., due to loss of a sample) than those performing monthly analysis, but are more likely to lose data than those not performing any analysis (e.g., those using emission factors). Likewise, sources monitoring under the stringent Part 75 program can be required to invalidate large amounts of otherwise valid data based solely on the failure to perform a quality assurance test at some frequency, whereas those monitoring under other programs might have no similar quality assurance requirement at all. In short, UARG does not believe that it is possible in a program like this with such disparate monitoring methodologies to establish a single data availability requirement for all sources.[Footnote: Such a requirement also is not necessary for those sources that already are required to collect the same data under some other program, like Part 75, that includes incentives for data collection.] Issues regarding data collection should be dealt with on a case by case basis. The question of whether to require recalculation and resubmission of data is similarly complicated. Although some DRs may prefer to recalculate and recertify their submitted data if an error is discovered, allowing or even requiring such resubmission vastly complicates EPA's data management efforts. Decisions regarding resubmission also should be made on a case by case basis taking into account the significance of the difference between previously submitted and recalculated data, and the overall potential impact of the error on the usefulness of the data. However, EPA should not attempt to prohibit a DR from resubmitting data, if doing so is necessary to make the submitted data consistent with other records the source is required to keep. Sources should not be required to retain two sets of data if they are not prepared to do so.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13, for the response on missing data. For the response to the comment about submitted corrections to GHG reports, see the preamble section on submittal date and making corrections to annual reports.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 17

Comment: EPA requested comment in the preamble on page 74 FR 16474, "Whether to include a provision to require a minimum standard for reported data." Marathon opposes a limit on the amount of missing data allowed for submittal. Industry needs the flexibility in the amount of missing data provided. For example, there may be meters not functioning properly with long-term repair timelines if repair can not be done while the system is on-line. This can result in a large amount of missing data. In these cases, engineering estimates would have to be used. Marathon proposes that there be no limit on missing data submitted, as each facility is required to meet the rule in all requirements, and for facilities to provide the best data available using the missing data procedures.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13.

Commenter Name: Craig Segall
Commenter Affiliation: Sierra Club
Document Control Number: EPA-HQ-OAR-2008-0508-0228n
Comment Excerpt Number: 6

Comment: Right now there is not a clear limit on how much, how many missing data sets you can have. If that is there, the high default value appears less. But if it is not there, although we think it should be, because particularly more the strong intent to provide missing data incidents, as this will ultimately dovetail into regulatory system, helping folks understand that it will have essentially high exposure to regulation if they aren't doing good bookkeeping.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13.

Commenter Name: Marcelle Shoop
Commenter Affiliation: Rio Tinto Services, Inc.
Document Control Number: EPA-HQ-OAR-2008-0508-0636.1
Comment Excerpt Number: 39

Comment: EPA seeks comment on whether to include a provision to require a minimum standard for reported data (e.g., only 10 percent of the data reported can be generated using missing data procedures). (74 Fed. Reg. at 16474) Subject to the exception noted, we generally support a 10% maximum of data allowed from missing data procedures. We note that for initial reporting years, reliance on a 10% minimum missing data standard may not be practical. However, such a missing data standard could be too stringent If EPA adopts Option 1: initial reporting in 2011 based on best available data in 2010.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13.

Commenter Name: David A. Buff
Commenter Affiliation: Florida Sugar Industry (FSI)
Document Control Number: EPA-HQ-OAR-2008-0508-0500.1
Comment Excerpt Number: 8

Comment: The FSI believes it is inappropriate to include minimum standards for the data reported pursuant to the proposed rule (e.g., only 10 percent of the data reported can be generated using missing data procedures). The proposed rule requires data collection and reporting, but the proposed rule does not establish any emissions standards based on human health or welfare. Although there is a need for accurate emissions data in this instance, the need is not as great as it is in cases where the emissions data are compared to a health-based standard. For this reason, there certainly should not be the same level of enforcement in this case as there is when emissions data are used to demonstrate compliance with federal emission standards. Therefore, the FSI believes EPA’s proposed rules for GHG should follow the current requirements in the Toxic Release Inventory (“TRI”) rules. Owners/operators should be allowed to correct reporting errors or miscalculations without penalty.

Response: See the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13.

Commenter Name: Leslie Sue Ritts
Commenter Affiliation: National Environmental Development Association
Document Control Number: EPA-HQ-OAR-2008-0508-0504.1
Comment Excerpt Number: 19

Comment: We feel that the ability to correct bad information and estimate where data is missing is sufficient for the GHG reporting program, since it is sufficient for other reporting programs for toxic chemicals as under the TRI program. While 10% data unavailability requirements do not appear particularly onerous by themselves, we object on the basis of our conviction that EPA should be incentivizing the generation of accurate information if there are mistakes and not felonizing such mistakes or "over-regulating" missing information at the inception of the reporting program. In view of the purpose of the inventory itself, NEDA/CAP suggests that an enforceable missing data requirement is not necessary, and that facilities should be able to supply data based on reasonable assumptions if recorded emissions data from monitoring systems or performance testing is not reasonably available. EPA can modify this requirement at such time as regulatory reduction requirements associated with GHGs become applicable to certain categories of industrial sources such as electric utilities and other pertinent types of fuel producers.

Response: With respect to a minimum standard for reported data, see the response to comment EPA-HQ-OAR-2008-0508-0956.1, excerpt 13. See the preamble sections and comment response documents on subpart C (General Stationary Fuel Combustion) and other relevant subparts for responses to comments on the specific procedures for estimating missing data for each source category.

Commenter Name: Gregory A. Wilkins
Commenter Affiliation: Marathon Oil Corporation
Document Control Number: EPA-HQ-OAR-2008-0508-0712.1
Comment Excerpt Number: 18

Comment: The rule does not specify how data obtained during calibrations and other quality assurance tests should be handled. Marathon proposes adding a provision to the rule stating that data (or lack of data) from these situations be handled using the missing data procedure and/or inaccurate data procedure proposed above.

Response: Whenever a quality assured value for a required parameter is unavailable, the reporter must use the missing data procedure contained in the rule.

Commenter Name: J. Michael Kennedy
Commenter Affiliation: Florida Electric Power Coordinating Group
Document Control Number: EPA-HQ-OAR-2008-0508-0473.1
Comment Excerpt Number: 16

Comment: FCG also strongly disagrees with EPA's statement regarding the impact of missing data on compliance. In the preamble, EPA states the "merely filling in missing data as specified does not excuse a failure to perform the monitoring or testing." Although FCC agrees that a source cannot comply with the rule simply by filling in missing data, in most cases filling in missing data does excuse the failure to monitor. A source that is conducting monitoring according to the required methodology, but that does not achieve 100 percent data availability

with that methodology, is not in violation of the rule. This point is particularly relevant to the Part 75 data EPA proposes to require ARP-affected units to use under this rule. Part 75 imposes stringent quality assurance requirements that can routinely result in missing data. Some of these data can be missed as a result of the requirement to perform quality assurance tests (e.g., daily calibration error tests and quarterly linearity tests) on monitors, since monitoring systems cannot read both stack emissions and calibration gas at the same time. Other data might be missing as a result of routine maintenance or corrective action. The fact is that even well-maintained monitoring systems fail tests, malfunction, or break. Although CO_2 and heat input data availability under Part 75 is generally very high, 100 percent availability was never contemplated and EPA has never suggested that it is required in order to comply with the rule. FCG urges EPA to withdraw and rephrase the statement regarding the impact of missing data on compliance (e.g., to say that a source cannot comply with the rule simply by filling in missing data).

Response: See the response to comment EPA-HQ-OAR-2008-0508-0493.1, excerpt 40 above.

Table 1

COMMENTER	AFFILIATE	DCN
Mark Dopp	American Meat Institute (AMI)	EPA-HQ-OAR-2008-0508-0440.1
Stewart T. Leeth	Smithfield Foods, Inc.	EPA-HQ-OAR-2008-0508-0553

Table 2

COMMENTER	AFFILIATE	DCN
Bruce Thompson	American Exploration and Production Council	EPA-HQ-OAR-2008-0508-0367.1
William W. Grygar II	Anadarko Petroleum Corporation	EPA-HQ-OAR-2008-0508-0459.1

Table 3

COMMENTER	AFFILIATE	DCN
James Greenwood	Valero Energy Corporation	EPA-HQ-OAR-2008-0508-0571.1 EPA-HQ-OAR-2008-0508-0571.2
Charles T. Drevna	National Petrochemical and Refiners Association	EPA-HQ-OAR-2008-0508-0433.1 EPA-HQ-OAR-2008-0508-0433.2

Table 4

COMMENTER	AFFILIATE	DCN
Olon Plunk	Xcel Energy Inc.	EPA-HQ-OAR-2008-0508-0444
Debra J. Jezouit	Class of '85 Regulatory Response Group	EPA-HQ-OAR-2008-0508-0455.1

Table 5

COMMENTER	AFFILIATE	DCN
Lisa Beal	Interstate Natural Gas Association of America (INGAA)	EPA-HQ-OAR-2008-0508-0480.1
Richard Bye	CenterPoint Energy, Inc.	EPA-HQ-OAR-2008-0508-2124.1
Brianne Metzger	Spectra Energy Corporation	EPA-HQ-OAR-2008-0508-0364.1

Table 6

COMMENTER	AFFILIATE	DCN
Olon Plunk	Xcel Energy Inc.	EPA-HQ-OAR-2008-0508-0444
R. Skip Horvath	Natural Gas Council (NGC)	EPA-HQ-OAR-2008-0508-0530.1

Table 7

COMMENTER	AFFILIATE	DCN
Johnny R. Dreyer	Gas Processors Association (GPA)	EPA-HQ-OAR-2008-0508-0412.1
William W. Grygar II	Anadarko Petroleum Corporation	EPA-HQ-OAR-2008-0508-0459.1

Table 8

COMMENTER	AFFILIATE	DCN
Pamela A. Lacey	American Gas Association (AGA)	EPA-HQ-OAR-2008-0508-0709.1
Richard Bye	CenterPoint Energy, Inc.	EPA-HQ-OAR-2008-0508-2124.1

Table 9

COMMENTER	AFFILIATE	DCN
Chris Hobson	The Southern Company	EPA-HQ-OAR-2008-0508-1645.1
Quinlan J. Shea, III	Edison Electric Institute (EEI)	EPA-HQ-OAR-2008-0508-1021.1

Table 10

COMMENTER	AFFILIATE	DCN
Craig Holt Segall	Sierra Club	EPA-HQ-OAR-2008-0508-0635.1
Melissa Thrailkill	Center for Biological Diversity	EPA-HQ-OAR-2008-0508-0430.1

Table 11

COMMENTER	AFFILIATE	DCN
Burton Eller	National Cattleman's Beef Association (NCBA)	EPA-HQ-OAR-2008-0508-0418.1
Rick Stott	Agri Beef Co.	EPA-HQ-OAR-2008-0508-0371.1
Todd Schroeder	Nebraska Cattlemen, Inc. (NC)	EPA-HQ-OAR-2008-0508-0416.1
William Hammerich	Colorado Livestock Association	EPA-HQ-OAR-2008-0508-0393.1
Ross Wilson	Texas Cattle Feeders Association (TCFA)	EPA-HQ-OAR-2008-0508-0395.1
William Hammerich	Colorado Livestock Association (CLA)	EPA-HQ-OAR-2008-0508-0425.1